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COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

Second Session

SUMMARY RECORD OF THE FORTY-SECOND MEETING

Lake Success, New York
Thursday, 20 May 1948, at 2.30 p.m.

Chairman:	Mrs. Franklin D. ROOSEVELT	United States of America
Vice-Chairman and Rapporteur:	Dr. K. AZKOUL	Lebanon
Members:	Mr. E.J.R. HEYWARD	Australia
	Mr. H. SANTA CRUZ	Chile
	Dr. T. Y. WU	China
	Prof. R. CASSIN	France
	Mr. A. P. PAVLOV	Union of Soviet Socialist Republics
	Mr. G. WILSON	United Kingdom
Consultants from non-governmental organizations:		
	Miss Toni SENDER	American Federation of Labor
	Mr. A.J. VANISTENDAEL	International Federation of Christian Trade Unions
Secretariat:		
	Dr. J. P. HUMPHREY	
	Dr. E. SCHWELB	
	Mr. E. LAWSON	

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Mr. SANTA CRUZ (Chile) pointed out that the Spanish of the words "human rights" had been incorrectly translated in the documents already circulated in Spanish. It should be "Derechos del hombre".

The CHAIRMAN proposed that, in view of the short time left for the Committee to finish its work, the remaining Articles of the Draft Declaration should be submitted to the Commission on Human Rights, as contained in the Report of the Second Session of the Commission, (E/600) together with any amendments to any of these Articles submitted in writing at the current session of the Drafting Committee. The Committee could then devote its remaining meetings to the discussion of implementation.

Mr. SANTA CRUZ (Chile) said that it would be better to finish the discussion of the Declaration, which was as important as implementation. The remaining Articles covered economic and social rights. These had not been included in the Covenant, which was an added reason for not overlooking them in the Declaration.

Mr. HEYWARD (Australia) supported the Chairman's proposal, pointing out that the experience of the Committee had been, that, after several hours of discussion, the text finally adopted did not differ greatly from that contained in the Report of the Second Session of the Commission on Human Rights.

Mr. AZKOUL (Lebanon) said that the Rapporteur must have time to make his report to the Commission.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the Committee should finish its work on the Declaration. It would be difficult for the Rapporteur to make a report unless he had the contents for such a report.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) said that the Committee should continue its work on the Declaration, and then refer to the Commission any Articles which the members had not had time to discuss, with the amendments proposed.

Mr. WILSON (United Kingdom) said that he would have supported the proposal to continue discussion of the Declaration, if the remaining Articles had been non-controversial. As this was not the case, he considered it would be a waste of time to discuss the eight Articles dealing with economic and social rights. He supported the Chairman's proposal to refer to the third session of the Commission the text of the remaining Articles as given in the Report of the second session, together with any positive suggestion which any representative wished to make.

Mr. WU (China) suggested that the Committee should have a general discussion on the economic and social rights, without considering formal amendments or adopting a final text.

Mr. HEYWARD (Australia) said that the Committee should continue its work by discussing the remaining Articles individually and then refer to the Commission whatever Articles were left, with the amendments and suggestions submitted in writing.

The Committee decided, at the suggestion of Mr. WILSON (United Kingdom), to finish its consideration of the Covenant by examining Articles 24 and 25 as drafted by the Drafting Sub-Committee (document E/CN.4/AC.1/42), and then decide how to proceed, on the basis of the amount of time left.

/DISCUSSION

DISCUSSION OF ARTICLES 24 AND 25 OF THE DRAFT INTERNATIONAL COVENANT

Article 24, as drafted by the Drafting Sub-Committee (E/CN.4/AC.1/42) was adopted by four votes to none with three abstentions.

In answer to a question from the Soviet Union representative, Mr. WILSON (United Kingdom) said that the difference in substance between Article 25 as drafted by the Drafting Sub-Committee and as drafted by the Commission on Human Rights at its Second Session, was not very great, but the difference in drafting was substantial. The Drafting Sub-Committee had put forward for Article 25 the text of the Article as contained in the Draft Conventions drawn up at the United Nations Conference on Freedom of Information, with the addition of the phrase "with respect to these territories on behalf of which they do not accede to this Covenant at the time of their accession".

Mr. CASSIN (France) said that Article 25 as drafted by the Drafting Sub-Committee differed in substance, and not only in drafting. He could not support it. There were three categories of territories to which the Article referred: Trust territories, for which the language of the Charter should be maintained, territories under protectorates which would be adequately covered by Article 25 as drafted, and non-self governing territories, for which the metropolitan power had responsibility. Article 25 as drafted laid down a rule for metropolitan powers which might or might not be acceptable. Some reference to the provisions of Chapters XII and XIII of the Charter was essential, as the Covenant must not in any way violate the Charter. He thought that Article XXXVII of the French Draft Covenant (E/CN.4/82/Add.10) was preferable as it kept to the wording of the Charter.

Mr. WILSON (United Kingdom) said that clearly, if there were any special arrangements under the Trusteeship agreements, they would prevail.

/Article 25

Article 25 was intended to cover cases where no special provisions were made. The metropolitan power responsible for the Trust territory would draw the attention of the government of that territory to the Covenant, and accede on its behalf when the government of the Trust territory had agreed.

Mr. SANTA CRUZ (Chile) said that he preferred the text as adopted at the Second Session of the Commission on Human Rights, whereby the metropolitan power, in signing the Covenant on its own behalf, at the same time acceded on behalf of its mandated and Trust territories. He thought that the local authorities as well as the government of these territories should be allowed to express their desire through the metropolitan power to adhere to the Covenant.

The CHAIRMAN said that at the Second Session of the Commission, the point had been made that in certain cases the metropolitan power was obliged to ascertain the wishes of the government of territories under its jurisdiction before imposing a Convention on it.

Mr. WILSON (United Kingdom) said that Article 25 was primarily intended to put an obligation on the metropolitan powers to seek the consent of the governments of territories under their jurisdiction before acceding on their behalf to the Covenant.

Mr. SANTA CRUZ (Chile) said that under Article 25 as drafted, if the population of a Trust or Non-Self-Governing territory wished to adhere to the Covenant, it could not do so without the agreement of the administering authority. Under the text as drafted at the Second Session of the Commission, such territories acceded to the Covenant as soon as the metropolitan power signed it.

/Mr. CASSIN

Mr. CASSIN (France) emphasized that a reservation should be inserted relating to the provisions of Chapters XII and XIII of the Charter. He proposed that the word "governments" in line 11 should be replaced by "competent authorities".

Mr. WILSON (United Kingdom), in answer to a question put by the representative of Chile, said that the government of a Trust or Non-Self-Governing territory would have the right to request adherence to the Covenant through the responsible metropolitan power. He pointed out that under Article 25 as drafted, the Contracting States undertook at the time of their accession, to seek the consent at the earliest possible moment of the governments of such territories. He said that he had no objection to the French amendment, but suggested that, as the text of the Article was taken from the Draft Conventions drawn up at the United Nations Freedom of Information Conference, and both documents would be considered at the Seventh Session of the Economic and Social Council, it might be well to let the Council decide the question in both cases. The word "government" implied a popularly elected body, and in his opinion was more representative than "competent authority".

Mr. CASSIN (France) said that he would withdraw his amendment as he did not think the question could be finally settled by the Drafting Committee. He reserved the right to raise the matter again at the Seventh Session of the Economic and Social Council, until which time he would temporarily accept the text before the Committee.

At the request of Mr. PAVLOV (Union of Soviet Socialist Republics), the Committee postponed further consideration of Article 25 of the Covenant until the following day.

/Mr. CASSIN

Mr. CASSIN (France) said that, as the Committee still had some hours in which to work, a preliminary exchange of views on the economic and social rights in the Declaration might be useful.

The CHAIRMAN said that the final part of the Drafting Committee's Report would consist of the text of Articles drafted at the Second Session of the Commission on Human Rights with any amendments submitted in writing, and it would include the Draft Declarations submitted by the French Government (E/CN.4/82/Add.8), the United States Government (E/CN.4/AC.1/20), and the Chinese delegation (E/CN.4/AC.1/18). The comments of representatives on these Articles would be contained in the Summary Records of the final meetings of the Committee.

DISCUSSION OF ARTICLES 23 AND 24 OF THE DRAFT INTERNATIONAL DECLARATION

The CHAIRMAN read the text of the comments submitted by the Governments of Brazil, Egypt, Mexico and the Union of South Africa, not represented on the Drafting Committee (E/CN.4/85, page 39).

Mr. SANTA CRUZ (Chile) drew a comparison between the different texts proposed for this Article. The text adopted at the Second Session of the Commission on Human Rights, the French proposal (E/CN.4/82/Add.8) and the text adopted at the Ninth International American Conference at Bogota all stated in one short sentence: "Everyone has the right to work". This should be maintained. He supported also the provision that everyone should have the right to choose a vocation freely, contained in the United States (E/CN.4/AC.1/20) and Bogota texts.

He thought that it was important to maintain paragraph 2 of the French text imposing on the State the obligation to take measures to prevent unemployment. This was not incompatible with the different economic systems of Member States.

/The French

The French text provided that every worker should have the right to receive pay commensurate with his ability and skill. It was important that a worker's salary should be enough to ensure to him and his family the means of living a decent human life. This concept should be included in the Article.

He supported the concluding paragraph of the French text relating to equal pay for equal work for women, which was a principle his delegation had supported in other organs of the United Nations.

Miss SENDER (American Federation of Labor) supported the provision of the United States text which granted the right to work under fair and just conditions. This would cover to some extent the point made by the representative of Chile concerning the salary of the worker, and the comment of the Mexican Government that everyone should have the right to paid work (E/CN.4/85). The United States text was an improvement on that adopted at the Second Session of the Commission on Human Rights, but omitted certain essentials, in particular the State's duty to prevent unemployment and the provision relating to equal pay for equal work. She would support the United States text with these two important additions. The first point might be more acceptable if it were said that the worker had the right to expect the State or community to prevent unemployment.

Mr. HEYWARD (Australia) supported the French text which he said was an improvement on that adopted by the Commission. The United States provision regarding free choice of vocation was valuable but did not belong precisely at this point. The right to work and the right to remuneration, and fair and just conditions should be separated as in the French text. The provision concerning the State's duty to prevent unemployment must be maintained, preferably as drafted in the French text.

/Mr. WILSON

Mr. WILSON (United Kingdom) said that he would have more detailed comments to make regarding these Articles at the Third Session of the Commission on Human Rights. He supported the French text. He considered the provision regarding unemployment should be maintained. If the rights of individuals alone were mentioned and the obligations of States omitted, the Declaration would be a purely formal document.

He said that the women's organizations in the United Kingdom disliked the provision concerning equal pay for equal work, as they objected to any specific reference to the rights of women, which they considered were covered in a Declaration of Human Rights relating equally to men and women.

Mr. VANISTENDAEL (International Federation of Christian Trade Unions) supported the French text. He said that the duty of the community as well as the State to take measures to prevent unemployment should be mentioned. He thought that it was logical to state that the worker had the right to receive pay commensurate with his ability and skill. The point made by the representative of Chile was covered by the subsequent phrase "which shall secure for himself and his family a full decent and dignified life". He supported the provision to grant equal pay for equal work, drawing attention to the comment by the Netherlands Government on this matter (E/CN.4/85, page 40).

He supported the United States provision for the right to join trade unions freely chosen by the worker, and proposed the addition to the French text, paragraph 2, last line, of the words "of his own choice" following "trade unions".

Mr. PAVLOV (Union of Soviet Socialist Republics) objected that none of the provisions of this Article specified the concrete measures which should be taken to give effect to them. He supported the right of

/women

women to equal pay for equal work, which they did not enjoy in some countries. It was a progressive and essential statement which perhaps did not even go far enough. The Article should develop and amplify the idea of a minimum wage which would secure for the worker and his family a full, decent and dignified life.

He said that the words "all persons ordinarily resident in its territory" in line 2, paragraph 2, of the French text were too limiting, and the text adopted by the Commission at its Second Session was preferable. He supported the suggested that not only States but also the community should undertake measures to ensure to all peoples the right to do useful work. This right had been much abused. All discrimination, and in particular black lists which certain employers used must be abolished.

He emphasized the importance of the provision concerning trade unions. It should be included in the Article on the right to work as well as in the Article on Freedom of Association. He thought that the right of the worker to receive pay commensurate with his ability and skill should be closely linked with the right to join trade unions. Otherwise the Article would be a declaration of benevolent intention without practical effect.

In answer to a question from the United Kingdom representative, the CHAIRMAN explained that the phrase "women shall work with the same advantages as men" was intended to mean that women should not work under less favourable conditions, but at the same time, should not be denied certain privileges such as maternity benefits.

Mr. CASSIN (France) supported this point of view. The health of women must be protected, and he considered that this provision was essential. He explained that in paragraph 2 of the French text concerning the State's duty to prevent unemployment, it had been thought that the use of

/the word

the word "States" in the plural (in the French original version) was a formula on which the Committee could reach agreement. Paragraph 3 of the French text was especially important. It did not cover the choice of a vocation which ought perhaps to be included. The provision relating to salaries was the statement of an ideal, the implementation of which would have to be worked out in detail for each country. The Declaration did not specify in detail the means of achieving the ideals it laid down. This was the task of the Covenant or subsequent Conventions, or possibly the ILO. He accepted the proposed addition of "trade unions of his own choice".

Mr. WU (China) said that the suggestion made by the representative of the International Federation of Christian Trade Unions that the community as well as the State should take steps to prevent unemployment should be brought to the attention of the Commission on Human Rights at its Third Session. The provision concerning equal pay for equal work for women was very important and should be retained.

Mr. SANTA CRUZ (Chile) said that it might be dangerous to confuse abstract provisions with something as positive as State action in preventing unemployment. In this regard, it was difficult to define the community as such, and its duty in preventing unemployment. The Article should say that States should take all necessary measures to prevent unemployment. This had been done in Chile fifteen years ago during an economic crisis.

DISCUSSION OF ARTICLE 25 OF THE DRAFT INTERNATIONAL DECLARATION

The CHAIRMAN read the text of the comments submitted by the Governments of Brazil and the Netherlands (E/CN.4/85, page 41) not represented on the Drafting Committee.

She said that the United States version of this Article (E/CN.4/AC.1/20) was more concise, but omitted the reference to the responsibility of the

/State

State for the health of its people. She thought it was preferable in a Declaration to omit reference to the duty of the government in implementing its provisions.

Mr. WILSON (United Kingdom) said that, in his opinion, Article 25 should come under the Article dealing with Social Security. He had an open mind on the exact form in which it should appear under that Article.

Mr. PAVLOV (Union of Soviet Socialist Republics) criticized Article 25 on the grounds that it was too vague and general and contained nothing on how its provisions were to be realized. In the Soviet Union the right to health was ensured by the fact that every citizen received free medical service. Great results had been achieved in his country, where up to the war, the number of hospitals and clinics had been greatly increased, infant mortality had been reduced more than three times the figure for the pre-revolutionary period. Health resorts were available to all people; the czar's palace in the Crimea for example was a sanatorium for farmers. These represented real and concrete measures for assuring free medical service. This was what the Declaration should aim at if it were to be effective and not create illusions.

The right to housing was closely linked to the right to health. In the Soviet Union, an enormous number of villages, and more than six million buildings had been burned or destroyed by the Germans. In 1943 and 1944 effective measures had been taken to improve housing, homes had been built and six million people settled. The cost of housing in the Soviet Union was approximately one percent of a man's salary in contrast to the United States, where, he was informed, that the cost was one-third of a man's salary.

/Mr. CASSIN

Mr. CASSIN (France) pointed out that the French Government had linked together in one Article the right to health and social security (Article 22, E/CN.4/82/Add.8). The Article caused some difficulty because of the different economic systems in the various States. For some countries it went too far, for others not far enough. An International Declaration could not be the same as a national Declaration. The authors of a national Declaration had at their disposal the necessary power to put its provisions into effect. This was not true of the authors of an International Declaration, which could only be made effective by international agreement or, possibly through the implementation of an International Convention.

Mr. SANTA CRUZ (Chile) said that the French text was the most acceptable, as it laid the proper emphasis on social security. This was often confused with social insurance. In fact, it meant much more, and could be secured by direct State action without social insurance.

He referred to paragraph 2 of Article 22 of the French draft, which granted the individual protection against social risks. This was one form of social security. Protection against disease was another. In the French proposal, the right of the individual to preventive and remedial measures in respect of his right to health was included in one paragraph. The duty of the State to secure the rights enumerated was stated in the final paragraph. This Article was especially important for countries where the standard of living was low and the rate of disease and mortality very high, as in post-war Europe, many parts of Asia and the majority of the Latin American States. In most cases the countries themselves had already undertaken the necessary measures. The Soviet Union representative had indicated progress in his country. In Latin America, certain social security measures had been taken, as the result of which the death rate had been lowered and

disease prevented. The Article would not greatly affect States where a higher standard of living existed.

Mr. HEYWARD (Australia) said the French text was satisfactory for his delegation.

The CHAIRMAN said that her delegation would support the grouping of the right to health under the Article on Social Security. Social security might however not be understood to include all public health measures.

The meeting rose at 5:45 p.m.