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CONTENTS:

Pages

Draft International Covenant on Human Rights and Measures  
of Implementation (item 3 of the agenda)

- (b) Inclusion in the Covenant of provisions  
concerning economic, social and cultural  
rights (resumed from the 205th meeting)  
(E/1681, Annex III and E/CN.4/353/Add.3 pages  
9-10, E/CN.4/364 and Corr. 1, 2 and 3 and  
Add.1, 2 and 3, E/CN.4/513, E/CN.4/515 and  
Add. 1-17, E/CN.4/525, E/CN.4/527, E/CN.4/529,  
E/CN.4/530, E/CN.4/534, E/CN.4/537, E/CN.4/538/  
Rev.1, E/CN.4/539, E/CN.4/541, E/CN.4/542,  
E/CN.4/543, E/CN.4/544)

Present:

Chairman

Mr. MALIK (Lebanon)

Members:

Australia

Mr. WHITLAM

Chile

Mr. VALENZUELA

China

Mr. YU

Denmark

Mr. SORENSEN

Egypt

AZMI Bey

France

Mr. CASSIN

Greece

Mr. EUSTATHIADES

Guatemala

Mr. DUPONT-WILLEMEN

India

Mrs. MEHTA

Pakistan

Mr. WAHEED

Sweden

Mrs. ROSSEL

Ukrainian Soviet Socialist Republic

Mr. KOVALENKO

Union of Soviet Socialist Republics

Mr. MOROSOV

United Kingdom of Great Britain  
and Northern Ireland

Miss BOWIE

United States of America

Mrs. ROOSEVELT

Uruguay

Mr. CIASULLO

Yugoslavia

Mr. JEVROMOVIĆ

Representatives of specialized agencies:

International Labour Organisation

Mr. JENKS

United Nations Educational,  
Scientific and Cultural Organization

Mr. SABA

World Health Organization

Mr. BERTRAND

19

Representatives of non-governmental organizations:

Category A

World Federation of United Nations Associations	Miss WILSON
International Confederation of Free Trade Unions	Miss SENDER
International Federation of Christian Trade Unions	Mr. EGGERMANN

Category B and Register

Caritas Internationalis	Abbé HAAS
Catholic International Union for Social Service	Miss de ROMER Mrs. SHRADER
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. BERNSTEIN
International Association of Penal Law	Mr. HABICHT
International Council of Women	Miss van EEGHEN
International Federation of University Women	Miss ROBB
International League for the Rights of Man	Mr. de MADAY
International Union for Child Welfare	Mrs. SMALL
International Union of Catholic Women's Leagues	Miss de ROMER Miss ARCHINARD
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD Mr. RIEGNER
World Union for Progressive Judaism	Mr. WOYDA

Secretariat

Mr. Humphrey	Representing the Secretary-General
Mr. Das	Secretary to the Commission

DRAFT INTERNATIONAL CONVENTION ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION  
(item 3 of the agenda)

- (b) Inclusion in the Covenant of provisions concerning economic, social and cultural rights (resumed from the 205th meeting) (E/1681, Annex III and E/CN.4/353, Add.3, pages 9-10, E/CN.4/364 and Corr. 1, 2 and 3 and Add. 1, 2 and 3, E/CN.4/513, E/CN.4/515 and Add. 1-17, E/CN.4/525, E/CN.4/527, E/CN.4/529, E/CN.4/530, E/CN.4/534, E/CN.4/537, E/CN.4/538/Rev.1, E/CN.4/539, E/CN.4/541, E/CN.4/542, E/CN.4/543, E/CN.4/544)

The CHAIRMAN invited the Commission to resume consideration of item 3(b) of the agenda. Representatives had before them the proposals submitted by the Danish representative (E/CN.4/542). He informed the Commission that the World Health Organization would also be putting forward proposals, which would be circulated the following morning.

AZMI Bey (Egypt) considered that the Danish proposal represented a laudable effort to achieve a compromise between the various texts previously submitted to the Commission, and truly reflected the spirit that had characterised the previous day's conversations, of which the French representative had given an account at the preceding meeting.

He pointed out, however, that the proposal did not refer to the right to strike, to trade union rights or to the principle of equal pay for equal work for men and women, whereas those rights were included in the drafts submitted by the Soviet Union and Yugoslavia. Nevertheless, it seemed to provide a suitable basis for the Commission's work.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that there had been very little time to study the Danish proposals. He would therefore have to reserve his delegation's position on them, but desired to make certain general observations at the present stage.

He could not agree that the Danish proposals constituted a compromise between his delegation's views and those of the United States delegation. Indeed, the Danish representative had more accurately appraised his own text when he had described it as being suspended between the sky and the earth. It seemed, in fact, to have found its place somewhere in the clouds, since it was conceived in such

veiled terms that it successfully avoided any positive formulation of the vital rights at stake. The articles drafted by the Danish representative would not guarantee to the peoples of the world their minimum fundamental rights to labour, rest, education and social security, without which, as the Australian representative had observed, the Covenant would become an object of ridicule.

He (Mr. Morosov) had already submitted that the United States proposal (E/CN.4/539) constituted a veiled refusal to define economic, social and cultural rights in practical terms. Regrettably, the Danish text, although drafted in somewhat broader terms could be criticized on the same grounds, since closer examination revealed that it was substantially similar in character to the United States text, inasmuch as it consisted of empty declarations of principle which would have no binding force on signatory governments. It would be noted that several of the articles in the Danish text opened with the words: "Each State party hereto undertakes to promote conditions ...." No attempt was made to require governments to guarantee certain rights unequivocally, nor was any indication given as to the methods they should pursue in promoting the conditions mentioned. For instance, the Danish text went no farther than to declare that each government should promote conditions to assure its nationals the right to useful work. There was nothing to ensure that governments would in fact guarantee employment to all. The text therefore failed to transcend the general framework of the United States proposal. Indeed, both proposals were vitiated by a fundamentally erroneous conception of the place that social, economic and cultural rights should occupy in the Covenant. It seemed that the Danish representative did not consider that those rights belonged to individuals as such, and he had therefore confined himself to stating that governments should promote favourable conditions. Thus, no advance had been made on the Universal Declaration of Human Rights with all its admitted inadequacies.

Indeed, in some respects the Danish text fell short of the Universal Declaration, notably on the question of the right to work and choice of employment and of the right to education, being even less effective than that instrument in that it failed to ensure that governments would assume definite, practical

obligations guaranteeing certain rights which had only been generally stated in the Universal Declaration three years previously. Surely all members of the Commission would agree that some advance would have to be made on the Universal Declaration, if the Commission's work was not to become a farce. It was to be hoped that at least something would be done to improve the condition of the peoples of the world.

The principle on which the Danish text was based, namely, that economic, social and cultural rights did not belong to the individual as such, was not only contrary to common sense, but conflicted with the views expressed in the General Assembly when that body had taken the decision embodied in resolution 421(V), namely, that the draft Covenant should be expanded by the inclusion of provisions relating to such rights. The question at issue was the part to be played by governments in assuring certain rights to their nationals. In his view, every individual was entitled to certain basic economic, social and cultural rights without discrimination, and governments should assume definite responsibility for seeing that they were realized. For instance, the Soviet Union text clearly indicated the kind of measures governments should take to ensure the right to rest and leisure, recognizing that they would require adjustment to the particular conditions obtaining in each country. Thus guidance was given for the practical implementation of the provisions relating to that right.

The Egyptian representative had drawn attention to the omission of certain vital rights from the Danish text, but had suggested that it included certain proposals similar to those contained in the Soviet Union text. He (the Soviet Union representative) could not agree with that view. The briefest comparison of the Danish and Soviet Union texts would disprove it. For instance, under article 18b, of the Danish proposal each signatory government would undertake to promote conditions assuring its nationals the right to useful work, a provision which would make it possible for governments who were unable to do away with unemployment to plead that although they had done everything in their power to ensure such conditions as would provide work for

all, their efforts had proved unsuccessful for reasons beyond their control. The Soviet Union text, on the other hand, stated clearly and explicitly that "The State shall ensure to everyone the right to work and to choice of profession ....." Again, the Soviet Union text indicated the methods by which social security and social insurance for workers and salaried employees should be provided. It did not seek to impose any particular formula, knowing that each Government would have to choose that for itself according to its internal conditions. There was no such binding provision in the Danish text, and so there would be no guarantee that an improvement would come about in a field of social welfare which was recognized to be somewhat under-developed in a number of countries. Governments would, in effect, be free to do nothing whatever about providing social security and insurance.

As to education, the Danish text was even more restrictive than Article 26 of the Universal Declaration of Human Rights, since it did not stipulate that general education, as well as elementary education, should be free. Again, no definite responsibility to provide education was laid upon governments in the Danish text, although that was done in the Soviet Union text. Furthermore, the former conflicted with the express instructions of the General Assembly in resolution 421(V), whereby the Commission was requested to extend the provisions of the draft Covenant to all territories, whether non-self-governing, trust or colonial, under the administration of signatory metropolitan States. The wording of article 18f of the Danish text constituted an escape clause, even though that might not have been its author's intention. It would enable governments to avoid extending educational facilities in dependent territories, and to keep their subject peoples in a state of ignorance and at a low level of development: a policy which had been followed in the past by the colonial powers. In that manner, the Covenant would not have equal application in all territories.

He had adduced the foregoing examples to illustrate the fundamental differences between the Danish and Soviet Union texts. The Soviet Union Government was convinced that minimum, but definite, obligations to be

assumed by governments should be written into the draft Covenant. The Danish representative, on the contrary, believed that provisions relating to social, economic and cultural rights should not be inserted. Indeed, he had clearly stated his position at the 203rd meeting, when he had said that " [The Danish] Government had throughout taken the position that economic, social and cultural rights should not be included in the draft international Covenant for the same reasons as those adduced by the representatives of the United Kingdom and the International Labour Organisation." (See document E/CN.4/SR.203, page 18). Thus, the author of a so-called compromise text had in fact become the spokesman of those members of the Commission who had declared themselves against the inclusion in the draft Covenant of provisions relating to social, economic and cultural rights. It could hardly be expected that in those circumstances they could sincerely co-operate in drafting the necessary texts.

The Danish representative had only too clearly revealed his attitude to social, economic and cultural rights, and that he considered them of secondary importance, when he had suggested that the provisions relating to implementation should not apply to them. When the Commission went on to consider the problem of implementation, the Soviet Union delegation would expound its views as to what constituted genuine implementation and what was an attempt to interfere in the internal affairs of States. The fact that social, economic and cultural rights were not to be made subject to the provisions for implementation was evidence that the Danish Government had no real intention of ensuring their maintenance and protection. It was impossible to regard the Danish proposals as anything but an effort, albeit more subtle, than that made in the United States proposal to evade the issue and to ignore the clear directives of the General Assembly. He (Mr. Morosov) could not associate himself with such a procedure, which would mean that after three years' work on the draft International Covenant the Commission would be going backward instead of forward.

The CHAIRMAN, speaking as the representative of Lebanon, said that the Soviet Union proposal (E/CN.4/537) raised fundamental issues which the



Commission must face courageously.

Two cardinal points emerged. The first related to the uncontested importance of economic, social and cultural rights. A number of speakers had indicated their opposition to the establishment of a sort of order of precedence for the rights to be included in a draft Covenant or covenants, but none had, even incidentally, questioned their cardinal importance. There was no disagreement in the Commission on that score.

The second issue which would undoubtedly have to be decided by the usual procedure of a vote, related to the rôle that a State must play in ensuring those rights. That was indeed one of the crucial issues in the world today. According to the Soviet Union representative the State was bound to ensure to its citizens the enjoyment of those rights. That was an important and interesting concept, but not the only one in the world. He would urge the Soviet Union representative to make allowances for that fact, for the only alternative was to impose one concept on all governments. Such an imposition would, however, constitute interference in the internal affairs of States, to which the Soviet Union representative had just referred in a different connexion. Those who did not share the Soviet Union point of view, sought to express their own ideas in such a way as to do justice to their own conception of the duties and responsibilities of the State.

If each side would respect the other's point of view, he did not despair of devising terms acceptable to both parties. He would therefore urge representatives to dismiss from their minds the issue of the relative value or importance of the rights in question, and to concentrate on the question of the State's function in relation to them.

Miss BOWIE (United Kingdom) said that the majority of those representatives who had taken part in the informal consultations the preceding day would be shocked at the charge of insincerity brought against the Danish representative by the Soviet Union representative. The former had played a leading part in trying to bring about a common understanding, and although

the proposal contained in E/CN.4/542 had been submitted in his name, that had been done solely as a matter of form. In making it, the Danish representative had in reality been acting as spokesman for several delegations.

She would deal with points in the several proposals which would be extremely difficult to implement. The Soviet Union proposal provided that the State should ensure the right to work; the Danish proposal confined itself to saying that each State must undertake to promote conditions which would assure to all its nationals the right to useful work. The Soviet Union text would alarm a commission composed of economists. It was not yet agreed by what means the right to work could be achieved and ensured in a free society. If one started from the premises that work was available, and that a man must either do it or die, then the Soviet Union proposal was valid enough. In 1949, the Soviet Union representative had admitted that thousands, indeed hundreds of thousands, of people in the Soviet Union worked in forced labour camps. But had they the right to work? Was that work of their own choice?

A close technical knowledge of economic conditions throughout the world was needed before employment could be guaranteed to everyone. So far it had been possible only to ensure that those who were unemployed should receive benefits. That provision was very different, however, from guaranteeing work in a free society.

Turning to article 186 in the Danish proposal (E/CN.4/542), she noted the term "useful work of their own choice" and wondered exactly what it meant. An artist's work might be valuable, but was it useful? What of a hairdresser or a manicurist? To carry the argument to a reductio ad absurdum, she would ask what the consequences would be if a great many young people were suddenly to decide that they all wanted to be acrobats or poets. Representatives must keep in mind the fact that they were preparing a legal instrument which must be susceptible of legal enforcement. It would be impossible to enforce by law provisions couched in such general terms.

Again, reference was made in the same article to "just and favourable wages and conditions of work". Such conditions depended on the organization of the industrial and economic system in a country. In the United Kingdom, for example, the trade unions were largely responsible for negotiating wage settlements and conditions of work, due regard being paid to the minimum standards laid down by the State. It would be impossible in her country to transfer to the State all the duties devolving upon trade unions.

Both proposals referred to the right to rest and leisure. She noted that the Soviet Union proposal limited that right "to every hired worker", but the Danish proposal extended it to everyone. How would it then be ensured to the mother of a large family.

In commenting on the Soviet Union proposal that the State should ensure the development of science and education, she could not but recall that she was a member of the International Federation of University Women, which was strongly opposed to State interference in that field, and believed in full freedom of study, research and opinion. It was hardly necessary to mention the celebrated Lysenko controversy, the outcome of which would undoubtedly displease the supporters of certain theories.

Like the Danish representative, she had been accused of wishing to exclude economic, social and cultural rights from the draft Covenant. But the Danish representative could point with pride to the achievements of his own country, and so could she. Her attitude was governed by subordination to very high standards of exactitude and of legal responsibility. Each proposal submitted to the Commission must be examined by her in the same critical spirit as all proposals were examined in a country which had a free public opinion, a free press and a parliamentary opposition. She could not accept loose phrases about fundamental rights.

Finally, she wished to put the following question. Reference was made in the proposals to several rights which were the subject of discussion in many countries, and which were being studied by the International Labour Organisation.

Would it be possible for the Commission to reach any conclusion until it knew what subjects had been dealt with in the conventions drawn up by that organization? The Commission should have full information on that point.

The CHAIRMAN requested the representative of the International Labour Organisation to consider whether his organization, like other specialized agencies, would be able to submit proposals to the Commission.

As to the question asked by the United Kingdom representative, he would draw attention to item 13 of the documentation prepared by the Secretary-General for the current meeting for item 3(b) of the agenda (E/CN.4/364 and corrections and addenda thereto).

Mrs. ROOSEVELT (United States of America) said that, in view of certain statements made during the discussion, it would be well to recall the difference between the Universal Declaration of Human Rights and the draft First International Covenant. The former consisted of a statement of standards which countries were asked to achieve. It was not, and should not, be considered as a legal document, although it had certainly had a great deal of influence in the world and had, for instance, helped certain countries in drawing up their constitutions. In the United States of America, reference had been made to it in several judicial decisions. But the Indian representative had rightly pointed out at the preceding meeting that a covenant was a very different kind of document, since it must be capable of legal enforcement. The task of drafting such an instrument was wholly unlike that of setting out hopes and aspirations relating to the rights and freedoms of peoples.

She must pay tribute to the Danish representative who had formulated the ideas which had been expressed by several delegations at the informal consultations.

Turning to the Soviet Union proposal, she noted, as an instance of the difficulties involved, the reference in the article on educational facilities to non-discrimination as to race, sex, language, means, or social origin. She had been under the impression that that principle was applicable to all rights, and wondered why it should be inserted in an article dealing only with education.

Indeed, the difficulties of definition arose at every turn. Now, for instance, should "elementary" education be defined?

The United States Government had formerly held that those subjects which had been studied by the International Labour Organisation should be included in a separate convention, or series of conventions. In the light of the decision taken by the General Assembly at its last session, the United States Government had, however, reconsidered the matter, and had decided that a statement designed to promote certain economic and social objectives could be included in the Covenant, provided that the definitions were sufficiently wide. Experience had abundantly demonstrated the danger of going into too great detail. To-day, in the United States of America, broad formulation was preferred to detailed texts. Reference had also been made in the Commission to the very important point that, if the provisions in the Covenant were too detailed, many States would be unable to ratify it. That was why her proposal (E/CN.4/539) consisted of a general statement.

The issues of implementation must be considered at a later stage. For the time being, she wished to remind the Commission that it must guard against the danger of achieving nothing by trying to do too much.

Mr. WAHEED (Pakistan) expressed his thanks to all those members who had formulated proposals for the inclusion in the Covenant of articles on economic, social and cultural rights. The representatives of Denmark, the United States of America, the Soviet Union and Yugoslavia, had each, in his or her own way, endeavoured to translate human aspirations into formal language.

It was now to be hoped that it would be possible for the Commission to arrive at an agreed solution. He would not, at the present stage, comment in detail on the merits of each proposal, but would merely state that those put forward by Denmark and Yugoslavia seemed to offer a sound working basis

on which adequate and comprehensive provisions might be worked out. It would seem to him that the specialized agencies could assist the Commission at the present stage, joining, perhaps, a working group to evolve a final agreed text.

As he had indicated previously, civic and political freedom, according to his country's view, was meaningless unless it was harnessed to the enjoyment of economic, social and cultural rights. There would seem to be a general consensus of opinion in the Commission on the necessity of incorporating those rights in the Covenant, and great though the difficulties of drafting were, it would surely not be impossible to produce a legal instrument which would on the one hand satisfy human aspirations, and on the other be capable of implementation and legal enforcement.

The Commission's attention had frequently been drawn to the wide economic, social and cultural differences which obtained in different countries, and to the difficulties which under-developed countries would have in implementing those articles straightaway, because of the heavy financial implications. That was why his delegation had suggested at the 203rd meeting that implementation could best be achieved by means of separate protocols, which individual States would be able to apply in their own time and in accordance with their resources. The economic and social rights should be defined not only in detail, but with the utmost legal precision. The Covenant would be incomplete and inadequate if the States signatory to it were able to place different interpretations on those rights, and so deny their peoples of the benefits of them.

Mr. JENKS (International Labour Organisation), speaking at the invitation of the CHAIRMAN, said, in reply to the point raised by the United Kingdom representative, that the Secretary-General of the United Nations had, after consultation with the International Labour Organisation, submitted certain relevant documents to the Commission in which full indications were

given about the work done by the International Labour Organisation on various subjects connected with human rights. For instance, the issues raised in Articles 18b, 18c, and 18d of the Danish proposal had been under close consideration by the International Labour Organisation for many years, and would continue to be so.

The method of approach was the following: international standards were first laid down in conventions and recommendations, and were adapted to national requirements through regional conferences and to industrial requirements through special industrial committees. In working out its programme of technical assistance, the International Labour Organisation endeavoured to help governments to achieve implementation. Existing conventions and recommendations covered all questions raised in the articles he had mentioned, with the exception of the right to choice of work. Certain conventions and recommendations, for instance those relating to social services, were at the present time under revision.

Answering the CHAIRMAN, he expressed the view that the International Labour Organisation's help could more appropriately be given within a working group than in a formal written proposal. Its contribution would be more effective in that case, since the economic and social issues at stake were the subject of acute controversy the world over, and were viewed differently by States with different economic and social systems. In the sphere of industrial problems, there was a great difference between countries where such problems were settled by direct State action, and others where they were handled by negotiation between the parties concerned.

In view of those wide divergencies it was the considered opinion of the Governing Body of the International Labour Office, that a text reconciling the different points of view could best be arrived at through close examination in a small group. If such a group were set up, the International Labour

Organisation would then submit a tentative text reflecting the views of employer and worker interests, as well as the different attitudes prevailing in the free world today.

Mr. JEVREMOVIC (Yugoslavia) regretted that he had been unable to study the Danish proposal in detail, because the French text had only just reached him. Although he also wished to express his gratitude to the Danish representative for his endeavours, he was unable to accept the proposal as a basic working paper. The first task in drafting a covenant was to define the rights involved, that process being entirely separate from the process of defining governmental responsibility for implementation. There could, of course, be no rights without obligations, but all governments had assumed responsibilities with regard to human rights by their acceptance of the United Nations Charter and of the Universal Declaration of Human Rights. The Danish proposal (E/CN.4/542) dealt only with the responsibility of governments, not with the rights of man. True, concepts of government varied, but every government in the world required its citizens to serve in the armed forces and to wage war. It followed therefore that a government could not evade the responsibility of guaranteeing to citizens certain conditions of life, and hence economic, social and cultural rights. The Danish proposal failed to meet that fundamental aim; it imposed upon governments only minor obligations, namely, the promotion of certain conditions in accordance with available resources. The correct answer was that a government must find the resources to promote conditions of economic, social and cultural progress and development. In the United Kingdom for instance, nationalisation had been adopted as the solution. The means were each government's concern; what mattered was that it must make every endeavour to ensure to its people favourable conditions and the enjoyment of the rights in question.

He was unable to agree with the United Kingdom representative's opinion concerning the State's rôle in education. Education must certainly be free, but it was the government's task to create the proper conditions for such education. Its rôle could not be merely passive; it must organize and plan.



Moreover, there were certain important lacunae in the Danish proposal. Reference was made in article 18h to the protection of authors, artists and scientists, but nothing was said about the protection of the mother. Surely if fundamental rights were under consideration, the rights of the mother must be included. Women's rights were unfortunately not yet fully recognized. Woman must have equal rights with men, and their own rights as mothers and educators.

As to the question of implementation, he believed that it should be treated separately.

He reserved his right to make further comments later.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) supported the Soviet Union representative's criticisms of the Danish proposal, which represented, not a compromise, but an endeavour, in which the United Kingdom and the United States delegations had joined, to exclude economic, social and cultural rights from the draft Covenant. To propose that governments should merely promote certain conditions was to court the plea of inability to do so. Taking article 18f as an instance, he would submit that no government would refuse to recognize that elementary education should be free and compulsory for all. That did not imply that it would provide the necessary services. The reservation contained in that article was undoubtedly of special interest to the United Kingdom. In accordance with it, a State would undertake to adopt "detailed plans" for education in the dependent territories under its jurisdiction. He must recall a statement made by an official of the Colonial Office who had said, with reference to Nigeria, that it would take something like two or three hundred years before all Nigerian children had schooling. But plans already existed for that territory. In Tanganyika, in accordance with a ten-year educational plan, it had been estimated that 160,000 out of a total of 1½ million children of school age would have had some schooling in 1956, 85 per cent remaining uneducated. In some areas in the French Cameroons 95 per cent of the children, and in others 100 per cent, did not go to school. Such were the facts, despite the commitments formally assumed

by the States Members of the United Nations, involved. Educational progress was supposed to be part and parcel of the Trusteeship System; it was also referred to in Article 26 of the Universal Declaration of Human Rights. There was no doubt whatever that principles enunciated in the Charter and in the Universal Declaration must be fully applied to colonial and non-self-governing territories. The limitations that he had described in article 18<sup>f</sup> were equally evident in all the other articles of the Danish proposal.

He supported the Soviet Union proposal and reserved his right to speak more fully on the issue at a later stage.

Miss SENDER (International Confederation of Free Trade Unions), speaking at the invitation of the CHAIRMAN, said that although the hesitations about the inclusion of economic, social and cultural rights in the draft Covenant were wholly comprehensible, every effort should be made by the Commission to implement the decisions of the General Assembly and the Economic and Social Council. Certain delegations felt that the Covenant ought to contain a complete list of rights, whereas others wished to limit them. A further difficulty was that of implementation at national level or under international control. In order to solve those difficulties it would be advisable for the partisans of a complete list to state how they envisaged implementation. The conflict did not revolve around the question whether all economic, social and cultural rights or only certain basic rights should be mentioned. The conflict was between those who wanted implementation, and therefore realised that they had to make a selection of the rights that were enforceable under current conditions, and those who were against measure of implementation and therefore had no difficulty in proposing a whole catalogue of economic, social and cultural rights since, in the absence of enforcement measures, that would have no practical consequences.

The advocates of the right to work should be fully conscious of the delicate nature of the question; a right should not become a measure of coercion.

She supported the United States representative's argument that the Covenant must be an instrument capable of legal enforcement. From that point of view the Danish proposal was inadequate. A juridical text called for clear definitions. But so far no decision had been taken as to which rights could be enforced. She believed that the Commission would be able to move more rapidly if it set up a working party, which could call upon the long experience and knowledge of the International Labour Organisation.

Mr. EUSTATHIADES (Greece), replying to a remark made by the Soviet Union representative, who appeared to consider the Danish proposal retrogressive by comparison with the Universal Declaration, observed that, as the United States representative had already stressed, the Universal Declaration did not constitute a legal undertaking by the signatory States, and that its provisions - even those of a very general nature - would have much greater legal force if embodied in a covenant.

The United States representative had described the position of American jurisprudence with regard to the Universal Declaration. To that might be added mention, as an entirely exceptional case, of a decision by a Canadian court of law. Nevertheless, it was perfectly true that the Declaration, its historical value notwithstanding, did not involve any legal commitments.

With regard to the form of the Danish proposal, which laid the emphasis on undertakings by the State rather than on the rights of the individual, he pointed out that the same was true of most of the eighteen articles of the Covenant already drafted. It had been remarked that as such a form of words did not mention the individual, the human person, it did not make man the owner of rights. He, Mr. Eustathiades, must insist that, in his opinion, that question was not of primary importance. Whether the form of, say, the Danish draft or that of the Soviet Union draft were used, it was still the State which must assume the obligation to guarantee the rights accorded to individuals. There was therefore only a superficial divergence between the two forms. Nevertheless, the fact remained that in either form of words the Covenant went further than the Universal Declaration since it added a legal obligation for States. That was the justification for certain hesitations, which were entirely due to conscientiousness in the matter of international undertakings. Take, for instance, cultural rights. Everyone knew the outstanding efforts made by his sorely-tryed country to rebuild her devastated schools etc. She had succeeded only within the possibilities of her financial capacity. In that respect, he failed to understand the Ukrainian representative's criticism of the Danish proposal, which merely reproduced, on that point, the text of the proposal made by the United Nations Educational, Scientific and Cultural Organization whose experience entitled it to point out the difficulties and later to suggest the necessary reservations.

If the United Kingdom, whose social progress was generally recognised, itself felt somewhat hesitant in the matter, it was quite natural that countries like Greece, which still needed to exert great efforts for her reconstruction, should be concerned by the heavy financial obligations which might result from their obligations which in all good faith they would only be willing to assume within the limit of their possibilities of implementing the Covenant.

In conclusion, he observed that even if the Commission succeeded in producing a more or less exhaustive recital of economic, social and cultural rights, it would still be confronted with a purely legal difficulty; that of defining the content of those rights. If certain delegations still had some hesitation in committing themselves, it was, as always, from a sincere doubt as to their capacity to honour their undertakings and with a view to the attainment of the same ideal aimed at by all.

Mr. CIASULLO (Uruguay) said that his country would be in no way alarmed by the idea of having to adapt its national legislation to one of the drafts submitted to the Commission; and that included the Soviet Union draft. In studying the problem it was impossible to rely entirely on the results obtained in any one particular country; a common denominator must be found, without assuming that the position of the most highly privileged States must necessarily be taken as the basis.

From the legal point of view, his delegation agreed with that of Greece in considering that, while it was the individual who would enjoy the benefits of economic, social and cultural rights, it was the State which must be the instrument thereof. Since a legally binding covenant was involved, it must be remembered that the responsibility of finding the necessary means of ensuring the individual's enjoyment of the rights conferred upon him would fall upon the State.

In the matter of provisions relating to the right to education, Uruguay went further than any of the proposals before the Commission, since its legislation established the right to all grades of education. However, it would no

doubt be Utopian to try and include in the Covenant a universal rule making education compulsory and free of charge up to and including the highest grade.

Progress in the sphere of human rights should rest on solid, practical foundations. If each member of the Commission did as the representatives of the Union of Soviet Socialist Republics and of the Ukrainian Soviet Socialist Republic had done, and vaunted the achievements of his own country, the discussion would degenerate into mutual recriminations as to the merits and defects of each country; in other words, it would encroach on the political field, which was not the province of the Commission.

The essential aim towards which the Commission must work was to reach a practical solution which would provide legal guarantees for the rights to be included in the Covenant. That aim could be achieved more expeditiously by establishing working groups in which the competent specialized agencies could be represented.

Mr. WHITLAM (Australia) believed that the statements made by the French, Danish and other representatives had done much to clarify the issue; at least, they had helped his delegation to see things more clearly. In fact, the time had come when his delegation felt it might submit a further proposal for consideration by the Commission.

It was apparent from the various proposals submitted that there was considerable weakness in a detailed enumeration of economic, social and cultural rights, and that a solution of the problem could only be achieved after lengthy consideration and consultation with the interested specialized agencies. His delegation now took the view that it was desirable to restate the case on broad lines, as originally suggested by the United States representative, although that proposal as such did not appear to commend itself to the majority of members. He was therefore submitting the proposal contained in document E/CN.4/543, in the preparation of which valuable contributions by the representatives of the specialized agencies had been of great assistance.

His delegation felt that the first step was to affirm those economic, social and cultural rights in the manner adopted in paragraph 1 of document E/CN.4/543. While the list of rights set out there was by no means exhaustive, it represented a starting point. They were basic rights, and were of immediate importance if progress was to be made towards the fulfilment of the aspirations solemnly proclaimed in the Universal Declaration of Human Rights. He did not accept the notion of a hierarchy of rights; nevertheless, there must be some initial selection. He fully recognized that the paragraph was couched in general terms, and that it was open to criticism on those grounds. Those who lived under federal administrations were not afraid of such broad statements. In modern constitutions, they were not uncommon and, in fact, were frequently essential. As the French representative had urged, the Commission should act with boldness, and it was in that spirit that his delegation had drafted paragraph 1 of its proposal.

In line with the contention of the Yugoslav representative, the second paragraph set forth the obligations of the State and also covered the issues of international action and co-operation with the specialized agencies. Paragraph 3 dealt with the question of reporting by the specialized agencies to the General Assembly, and paragraph 4 contained a cautionary provision safeguarding the constitutional relationships between the United Nations and the specialized agencies. The intention was that the text of the Australian proposal should form a separate self-contained chapter of the Covenant.

As his delegation had previously stressed, juridical implementation was quite inappropriate for economic, social and cultural rights. Such rights could only be ensured through domestic legislation and by national administrations, all the more so as the factors attending their application varied so much. In the circumstances, his delegation contended that the specialized agencies, which had accumulated a large body of information on the subject and had at their disposal extensive expert facilities, should be entrusted with the task of supervising the enforcement of such rights. In that way, in addition to the possibility of observing the extent to which those rights were being protected and safeguarded,

it would also be possible to maintain a continuing appraisal of what further action was necessary, and why. Finally, the Economic and Social Council would have an opportunity of exercising a continuing judgment on the information submitted to it.

As he had said, the Australian proposal was put forward as a further method of approach to the problem.

Mr. VALENZUELA (Chile) expressed his gratitude to the Danish representative for the efforts he had made to draft a text on which the Commission could base its work. The fact that certain provisions in that text did not exactly correspond with the views the Danish representative had himself put forward showed that his proposal was a practical expression of a spirit of co-operation to which he (Mr. Valenzuela) felt bound both to draw attention and to pay tribute.

The same might be said of the Soviet Union proposal, which he would be prepared to accept subject to certain minor amendments. It was a positive and constructive effort which did credit to its author.

It would be noted that, in the text of the Danish proposals, article 18a contained a reservation with regard to the "organization, traditions and resources of the State" and that a similar reservation was made in article 18i. He supposed that in referring to the "organization" of the State, the representative of Denmark was thinking of the difficulties which might arise under a federal constitution, and that his reference to "resources" was prompted by a desire to take into account the problems peculiar to the under-developed countries. He (Mr. Valenzuela) would like, however, some explanation regarding the restrictions which might be applied to economic, social and cultural rights out of respect for national "traditions".

Article 18b of the same draft stipulated that "each State party hereto undertakes to promote conditions which will assure to all its nationals the right to useful work of their own choice, ... ". He could not help feeling that such a provision was based on a somewhat utopian conception of the problem. A State was generally considered to have fulfilled its economic obligations to its

nationals when it had achieved full employment. It would surely be imposing too heavy a burden on a State to oblige it to assure to all its nationals useful work of their own choice.

Again, the phrase "reasonable limitation" used in article 18c was devoid of all legal significance.

Finally, he congratulated the Australian representative on having put before the Commission a draft which constituted a remarkable contribution to the progress of its work. His delegation would be prepared to vote for the Australian draft, subject to a few minor amendments.

Mr. YU (China) said that the Chinese delegation considered that the Commission had a tremendous task before it. If that task were successfully carried out, the results would probably go down in history as a beacon for humanity. For a satisfactory solution of the problem, however, the Commission would have to take the matter very seriously, and seek every opportunity of obtaining all available facts from every possible quarter. It should proceed with caution and wisdom, and representatives should be ready to sacrifice their opinions if those of others proved more reasonable. Above all, it was essential to be realistic. It had taken three sessions to complete the Universal Declaration of Human Rights, and four sessions to work out the first eighteen articles of the draft Covenant. It was not, therefore, to be expected, even with hard work and much consultation with the specialized agencies, that satisfactory articles on economic, social and cultural rights could be drawn up in a short space of time.

The Commission was, in fact, seeking to draft a treaty that might in time become as significant for mankind as Magna Carta or the Bill of Rights. The Covenant should, therefore, present a balanced picture of human harmony. Different suggestions had been made, and emphasis had been laid on various economic, social and cultural rights. With regard to the right to work, his delegation endorsed the idea that conditions should be created in which people could find work easily, but did not agree that conditions should be created in which everyone had the right to work; for it must be a matter of automatic



acceptance that everyone had the right to work. The fundamental need with which humanity was faced at the present time was to secure a true view of the over-all picture of human progress in the various fields, such as the ethical, the economic, the social, the political and so on. The concept of the right to work would have little meaning in the absence of such a balanced picture, or if, as was the case in some countries, human beings did not enjoy even the right to live. One of the tragedies of modern times was the fact that the rapid progress of science had given rise to very considerable social, moral and economic difficulties. During the course of their long history, his fellow-countrymen had learned one important thing, namely, the value of high standards of human conduct; that was probably why, despite vicissitudes, China had preserved its national integrity. Again, his delegation believed that a minimum of state interference and a maximum of individual freedom was best for mankind, and he was accordingly unable to accept the imposition of totalitarian points of view on States which did not share them.

The Commission, in his delegation's view, should start from fundamentals. It should deal with the problem of economic, social and cultural rights in broad, general terms, consult with the specialized agencies and make haste slowly. None of the proposals before the Commission was satisfactory to his delegation. He would, however, accept the United States proposal, completed by the suggestion of the International Labour Organisation, as a basis for further discussion. Whatever was written into the Covenant would have to be susceptible of application, and so simple as to forestall violation.

The CHAIRMAN announced that a draft resolution submitted by the French delegation relating to the setting up of working groups would be circulated shortly and dealt with at the end of the general discussion. As it was a procedural proposal, it would take precedence over the substantive proposals which the Commission was at present considering.

Mr. MOROSOV (Union of Soviet Socialist Republics) wished to reply to some of the comments made on his delegation's proposal. He could assure the Commission that his delegation did not intend to impose on any organ or agency

of the United Nations the orders, laws and principles which prevailed in the Soviet Union. That was why he fully shared the views of the Chairman and the Uruguayan representative to the effect that, in defining economic, social and cultural rights, it was necessary to seek formulas which would be universally acceptable and applicable by those States which acceded to the Convention and, by so doing, demonstrated their willingness to safeguard the economic, social and cultural rights included in it. He could not, however, share the Uruguayan representative's view that the Soviet Union delegation had made a mistake in advocating the inclusion of certain provisions which, according to that representative, could be accepted by the Soviet Union alone, because of what it had already achieved in the field of economic and social rights. Had the Soviet Union delegation taken that view, its proposals would have gone far beyond the modest provisions it had put forward. He had only to take as an example Article 118 of the Soviet Union Constitution which laid down that every citizen of the Union had the right to work, that was, the right to be given guaranteed work paid for according to the volume and quality of the work done. That right to work had been ensured in the Soviet Union by : eliminating the exploitation of man by man, by the socialist organization of the national economy, by increasing productive capacity of the Soviet Union society, by removing the possibility of economic crises and by doing away with unemployment. In fact, the text submitted by his delegation constituted an absolute minimum for the adequate protection of mankind. He might have advocated the inclusion of the full extent of the benefits accruing under Article 118 of the Soviet Union Constitution, but as other countries would clearly not have been able to give effect to such a provision, his proposal had been couched in more modest terms.

In answer to the United States representatives' comment concerning the inclusion in his delegation's article relating to educational facilities of the phrase "without distinction of any kind as to race, sex, language, means or social origin", he explained that the intention was to emphasize the need for the absence of discrimination in a field where the tendency to practise it had been found to be most marked.

He not only felt that the United Kingdom representative had not been over-gracious to the Danish representative in referring to him as a figurehead for, rather than as a sponsor of, the proposals submitted to the Commission in his delegation's name, but also considered that she had dealt somewhat tactlessly with some of the Soviet Union suggestions. Having taken the Soviet Union point that the State should ensure to everyone the right to work and to choice of profession, with the object of creating conditions which would remove the threat of death by hunger or inanition, and realizing that she could not refute such a principle, she had observed, on the authority of out-dated anti-Soviet-Union sources, that such a principle was only possible of application in countries where a person either worked or died. He was surprised that the Chairman had not ruled the United Kingdom representative out of order in making such a statement. It would be only too easy for his delegation to go one better than the United Kingdom representative, for he could produce official and reliable information as to what was taking place in other countries. For instance, the report of the Commission on His Majesty's Prisons stated that the number of prisoners in the United Kingdom was now greater than at any other time during the past 40 years. Again, Article 54 of the British Penal Code issued in 1948 laid down that prisoners violating disciplinary regulations should receive 18 strokes of the cat-o'-nine-tails; for prisoners under 18 years of age the punishment was reduced to 12 strokes. Such was one of the systems prevailing in a country whose representative thought fit to indulge in slanderous statements against the Soviet Union. It was also officially reported in the United Kingdom that the number of juvenile offenders charged with assault and battery had increased twofold. The "News Chronicle" had reported serious increases in the price of coal, textiles and the like at a time when thousands of old people were living in extreme misery, and even members of the House of Lords had spoken of the atrocious housing conditions to be found in Great Britain. Such were the conditions prevailing in a country which prided itself on its high standard of living; and that explained why the United Kingdom representative rejected the inclusion of provisions which might tend to improve the conditions of millions of workers by means of adequate reforms.

In conclusion, he deprecated such fruitless exchanges, and hoped that he would not again have to reply to a similar challenge. He would prefer that the matter before the Commission should be dealt with in a business-like manner; members should not resort to such methods, in the hope of side-stepping the issue, as had been used by the United Kingdom representative to rebut the Soviet Union proposal concerning the right to work.

The meeting rose at 6.25 p.m.