

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.213

15 May 1951

ENGLISH

ORIGINAL: ENGLISH AND FRENCH

Dual distribution

COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND THIRTEENTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 24 April 1951, at 3 p.m.

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Present:

Chairman:

Mr. MALIK (Lebanon)

Members:

Australia

Mr. WHITLAM

Chile

Mr. VALENZUELA

China

Mr. YU

Denmark

Mr. SÖRENSEN

Egypt

AZMI Bey

France

Mr. CASSIN

Greece

Mr. EUSTATHIADES

Guatemala

Mr. DUPONT-WILLEMEN

India

Mrs. MEHTA

Pakistan

Mr. WAHEED

Sweden

Mrs. RÖSSEL

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. JEVREMOVIĆ

Representatives of specialized agencies:

International Labour Organisation

Mr. COX

United Nations Educational, Scientific
and Cultural Organization

Mr. BARMATE

Representatives of non-governmental organizations:

Category A

International Confederation of
Free Trade Unions

Miss SENDER

International Federation of
Christian Trade Unions

Mr. EGGERMANN

World Federation of United Nations
Associations

Mr. ENNALS

Category B and Register

Caritas Internationalis

Abbé HAAS

Carnegie Endowment for International
Peace

Mrs. CARTER

Catholic International Union for
Social Service

Miss de ROMER
Mrs. SCHRADER

Commission of the Churches on
International Affairs

Mr. NOLDE

Consultative Council of Jewish
Organizations

Mr. BENTWICH
Mr. MOSKOWITZ

Co-ordinating Board of Jewish
Organizations

Mr. MOWSHOWITZ

Friends' World Committee for
Consultation

Mr. BELL

International Council of Women

Mrs. CARTER

International Federation of
University Women

Mrs. ROBB

International Union for Child Welfare

Mrs. SMALL

International Union of Catholic
Women's Leagues

Miss de ROMER
Miss ARCHINARD

Liaison Committee of Women's
International Organizations

Mrs. ROBB

Women's International League for
Peace and Freedom

Miss BAER

World Jewish Congress

Mr. BIENENFELD

Secretariat:

Mr. Humphrey

Representing the Secretary-General

Mr. Das

Secretary to the Commission.

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

- (c) **CONSIDERATION OF PROVISIONS FOR THE RECEIPT AND EXAMINATION OF PETITIONS FROM INDIVIDUALS AND ORGANIZATIONS WITH RESPECT TO ALLEGED VIOLATIONS OF THE COVENANT - STUDIES OF QUESTIONS RELATING TO PETITIONS AND IMPLEMENTATION (E/1732, E/1927, E/CN.4/513, E/CN.4/515, and Add.1-17, E/CN.4/525, E/CN.4/527, E/CN.4/530, E/CN.4/549, E/CN.4/550, E/CN.4/551, E/CN.4/553/Rev.1, E/CN.4/555, E/CN.4/556, E/CN.4/557, E/CN.4/558)**
(continued)

The CHAIRMAN invited the Commission to continue its consideration of item 3(c) of the agenda.

Miss BOWIE (United Kingdom) recalled that at the previous meeting the Soviet Union representative had suggested that her arguments were facile and ready-made. If, when taking the floor, she spoke briefly, that was because she paid members of the Commission the compliment of assuming that their knowledge of the Charter, of earlier debates and of the various legal discussions on the interpretation of the Charter was such that she did not need to waste time in recapitulation. It was important that members of a Commission entrusted with so important a task, for which there was little time, should not speak for the record or to the gallery. Much time and energy could be spent in endless repetition of the same arguments, and she had been interested to note that, according to calculations made by a correspondent of the London "News Chronicle", Soviet Union representatives had accounted for 17 per cent of the total volume of words spoken at the last session of the General Assembly. She did not propose to depart from the practice of speaking as succinctly as possible.

The Soviet Union representative had claimed that there was a great gulf between her views and those of the French representative. She could not agree, as she believed that both the French representative and herself were prepared to accept some surrender of sovereignty, on the understanding that each government would carry into effect the general and comprehensive principles enunciated in the draft Covenant in the way most suited to its national traditions and

requirements. For example, there was general agreement that children should be properly fed; nevertheless, countries adopted different measures to ensure that. In the United Kingdom, school children were given a free mid-day meal. She had noticed, on the other hand, during her travels in the Soviet Union that in that country parents were required to contribute to the cost of school meals according to their means. Only the very poorest were exempted from that rule.

The CHAIRMAN, recalling the Indian representative's request at the 209th meeting that the Secretariat of the Trusteeship Council be asked whether it had encountered any special difficulties in dealing with petitions, stated that a cable on the subject had been received from headquarters.

The SECRETARY read a cable received from the Assistant Secretary-General in charge of the Trusteeship Department.

Mrs. MENTA (India) asked that the text of the cable should be reproduced and circulated to members of the Commission.

The CHAIRMAN said that that would be done. (See document E/CN.4/561.)

He then invited the Commission to pass to the consideration of the various proposals before it concerning measures of implementation, and suggested that as the Soviet Union draft resolution (E/CN.4/553/Rev.1) called for the exclusion of the articles on implementation from the draft Covenant on the ground that they constituted an attempt to interfere in the internal affairs of States and thus violated their sovereignty, it should be dealt with first, since its adoption would affect the way in which the other proposals would have to be treated.

Mr. MOROSOV (Union of Soviet Socialist Republics) believed it to have been understood that no final decision would be taken on the question of implementation until item 3(b), relating to the inclusion of provisions on

economic, social and cultural rights, had been disposed of, He would be grateful if the Chairman would clear up that point.

The CHAIRMAN observed that the point raised by the Soviet Union representative was of great importance. Was the Commission in fact in a position to take a decision of substance on so important a matter as the inclusion or non-inclusion of the implementation clauses in the draft Covenant before the remaining articles had been given their final form? Representatives would recall that it had been decided to push on with the consideration of item 3(c) before the Working Group met to examine item 3(b); but it had never been suggested that the former item should be finally disposed of before item 3(b) was taken up. The Commission was therefore free to decide whether or not it wished to take an immediate decision on the Soviet Union draft resolution.

Mrs. MEHTA (India) pointed out that there was a radical difference between the Soviet Union draft resolution and that submitted by the Yugoslav delegation (E/CN.4/551), as the latter suggested that the implementation clauses should be embodied in a separate instrument, whereas the Soviet Union draft resolution merely provided for their exclusion, on certain specific grounds. Thus, in the case of the Soviet Union draft resolution a question of principle was involved which could be settled immediately.

Mr. CIASULLO (Uruguay) agreed that a decision ought first to be taken on the Soviet Union proposal, for the reasons given by the Indian representative.

Mr. CASSIN (France) was inclined to believe, with the Soviet Union representative, that if it were desired that the Commission should take definite decisions forthwith on the implementation of any particular right, it would be right and proper to wait until the discussion on economic, social and cultural rights had been completed.

That was not, however, the issue before the Commission; what it must first settle was the question of whether or not provisions concerning the implementation of rights should be included in the Covenant, without specifying what those rights were.

He thought that the Commission could and should decide at once, before dealing with economic, social and cultural rights, whether the Covenant was to contain measures for implementation like those in articles 19 to 41 of the draft, and, if so, whether the relevant provisions should appear in the Covenant itself or in a separate instrument.

Mr. VALENZUELA (Chile) recalled the various aspects of the problem of method with which the Commission was faced. He observed that the Soviet Union delegation had at one stage proposed that the right to strike should be mentioned in the Covenant, and at another that no measures of implementation should be included in the Covenant. He therefore asked the Soviet Union representative whether or not the countries organized on the Soviet Union pattern recognised the right to strike. If they did, it would of course be possible to consider leaving to governments the responsibility of seeing that the right was respected.

Miss BOWIE (United Kingdom) recalled that before the Commission had finished drafting the first eighteen articles of the draft Covenant at its sixth session, the question of implementation had been debated at great length, and it had been decided that the relevant clauses should be included in the text. If the Commission was not continually to re-trace its steps, it should decide at once whether to include measures of implementation which would involve international control. That issue of principle could be settled independently of any consideration regarding the articles on economic, social and cultural rights.

Mr. MOROSOV (Union of Soviet Socialist Republics) remarked that he had merely raised a question of procedure. He would have no objection to his draft resolution being considered immediately.

With regard to the point raised by the Chilean representative, he again affirmed that the purpose of all the proposals put forward by the Soviet Union delegation was to render the draft Covenant a more effective instrument, by requiring governments to enter into definite and binding commitments.

He did not propose to give a detailed account of the fundamental features of the economic system of the Soviet Union. As was laid down in Article 4 of the Soviet Union Constitution, "The economic foundation of the USSR is the socialist system of economy and the socialist ownership of the instruments and means of production, firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man." The introduction of the socialist system had radically altered human relations. As the means of production were now owned by the people, exploitation had been eliminated and unemployment no longer existed. All that fundamentally distinguished the social relations in his country from those obtaining in capitalist countries, where the right to strike was a vitally important right for the protection of the workers' interests, for Soviet Union citizens that right could not have the same significance, for the reasons he had given. However, he could again assure the Chilean representative that all the provisions of the Covenant, including those relating to the right to strike, if they were included in the Covenant, would be equally binding on all Contracting States, including the Soviet Union, upon ratification of the Covenant.

Mr. YU (China), referring to the Soviet Union draft resolution, said that he did not consider that the sovereignty of States would be seriously affected by the application of the implementation clauses of the draft Covenant.

The provisions of article 2, paragraph 7 of the Charter did not in any way preclude sovereign States from entering into new international agreements involving specific commitments. If international co-operation was to take a practical form, it must inevitably entail some surrender of sovereign rights by the delegation of certain powers to the United Nations in the common cause. He therefore considered that the arguments on which the Soviet Union draft resolution was based were fallacious, and would oppose it.

The CHAIRMAN put to the vote the Soviet Union draft resolution (E/CN.4/553/Rev.1).

The Soviet Union draft resolution was rejected by 15 votes to 2 with 1 abstention.

The CHAIRMAN suggested that the Commission should then take up the Yugoslav draft resolution (E/CN.4/551), which proposed that the clauses relating to implementation should be embodied in a separate instrument.

Mr. SØRENSEN (Denmark) found some difficulty in forming an opinion on the Yugoslav draft resolution, since certain articles of the draft Covenant had still to be discussed. In his view, it had been possible to take a decision of principle on the Soviet Union draft resolution without reference to the actual content of the draft Covenant. But it was not possible to do so in the case of the Yugoslav proposal. He therefore thought that the Commission should either defer its decision on the Yugoslav draft resolution, or proceed on the assumption that for the time being the clauses relating to implementation would relate only to the first eighteen articles of the draft Covenant, and on the understanding that the question of implementation could be taken up again in the light of future decisions, particularly in connexion with economic, social and cultural rights.

The CHAIRMAN, speaking as the representative of Lebanon, said that he was in sympathy with the views expressed by the Danish representative.

Mr. CIASULLO (Uruguay) thought that a decision on the Yugoslav proposal should be deferred until the Commission had taken a decision on the actual rights, the implementation of which formed the subject of that proposal.

Mr. JEVREMOVIC (Yugoslavia) pointed out that his proposal that the implementation clauses should be embodied in a separate instrument had no direct bearing on their substance. He believed that the question of principle could be settled either at the present time or later.

Mrs. MEHTA (India) said that the Indian Government had always been in favour of inserting the measures for implementation in a separate instrument, since, if they were embodied in the text of the draft Covenant, it would be impossible to extend them to cover future international agreements in the same field. Indeed, the implementation clauses should relate to wider rights than those recognised in the draft Covenant, and the body set up to deal with implementation should be directly responsible to the United Nations, and not merely to the States Parties to the Covenant. For those reasons she would support the Yugoslav draft resolution.

The CHAIRMAN put to the vote the proposal that the Commission should vote on the Yugoslav draft resolution.

The proposal was adopted by 8 votes to 6 with 2 abstentions.

Mr. CASSIN (France), explaining his vote, said he thought the best method was to deal with the difficulties one by one. But although he had been unable to agree to the complete omission of the measures for implementation, he agreed with the Yugoslav representative that the insertion of such measures in the Covenant itself would not necessarily solve the problem of implementation as a whole. He accordingly reserved the right to submit, in due course, proposals for the expansion of any measures of implementation that might be included in the Covenant.

Mrs. ROOSEVELT (United States of America) proposed that the following text be adopted instead of the Yugoslav draft resolution:

" The Commission on Human Rights decides not to include in this draft Covenant any provisions concerning measures of implementation relating to non-state petitions, but to embody them in a separate instrument or instruments."

Mrs. MEHTA (India) thought that the text proposed by the United States representative had a narrower connotation than that of the original Yugoslav proposal. Implementation would not relate to the provisions concerning the right of petition alone, but to the observance of the Covenant in general. She could not, therefore, support the United States proposal.

Mr. JEVREMOVIĆ (Yugoslavia) said that he, too, was unable to accept the United States proposal. He had already explained why he considered that the implementation clauses should form a separate instrument.

Nor could he regard the arguments put forward by the French representative as valid.

Mr. WHITLAM (Australia) said that the United States proposal could hardly be regarded as an amendment to the Yugoslav draft resolution, the intention of which it obscured. He would therefore appeal to the United States representative to withdraw it, and re-submit it as a separate proposal to be considered independently of the Yugoslav draft resolution.

Turning to the points raised by the Indian representative, he was unable to understand why the incorporation of the implementation clauses in the draft Covenant itself would mean that it would be impossible to apply them to future agreements in the same field. The question was surely merely a matter of method. Provision could always be made in other instruments to extend to them the application of the relevant clauses in the Covenant. It would be useful if the Indian representative could elaborate her case for a separate instrument embodying the implementation clauses.

The CHAIRMAN agreed that it might well simplify the work of the Commission if the United States proposal were taken separately, after the decision on the issue of principle raised in the Yugoslav draft resolution.

Mr. CASSIN (France) felt that the tricky problem of petitions had not been gone into thoroughly enough to warrant taking a decision on it.

Mrs. ROOSEVELT (United States of America) was prepared to withdraw her amendment to the Yugoslav draft resolution provided that it was clearly understood that the intention of that draft resolution was that articles 19 - 41, relating to implementation, should be removed from the draft Covenant, and that any clauses concerning implementation adopted by the Commission would be included in a separate instrument.

Mr. JEVREMOVIĆ (Yugoslavia) said that, if it would assist the Commission in overcoming the procedural difficulty with which it was faced, he would have no objection to deferment of the discussion on his draft resolution until the substance of the implementation clauses had been dealt with.

The CHAIRMAN observed that the Commission would in that case have to reverse its decision to vote on the Yugoslav resolution.

Mr. CASSIN (France) again drew attention to the radical nature of the Yugoslav proposal. One could vote against it, and yet favour the adoption of some measures of implementation outside the Covenant proper.

In view of the somewhat complicated question with which the Commission was faced, he thought it might perhaps be wiser to defer the vote on the Yugoslav proposal until the Commission had examined the implementation clauses substantively; but the Yugoslav draft resolution should be the first document to be taken after that.

The CHAIRMAN remarked that it was often a wise thing for a deliberative organ to go back on one of its own decisions. He would therefore put to the Commission a motion that it reconsider the decision taken to vote on the Yugoslav draft resolution immediately.

The motion was carried by 13 votes to 3 with 2 abstentions.

The CHAIRMAN said that the Commission would accordingly again have to decide whether it wished to take immediate action on the Yugoslav draft resolution. He would, therefore, put that proposal to the vote again.

It was decided by 8 votes to 5 with 5 abstentions not to vote forthwith on the Yugoslav draft resolution (E/CN.4/551).

Mr. VALENZUELA (Chile) recalled that at its sixth session the Commission had decided to include in the Covenant measures for its implementation. He wondered how, from the procedural point of view, the Commission could go back on that decision. What rule of procedure would apply in those circumstances, and what majority would be required to make a decision valid? He personally felt, as he understood the Chairman did too, that a two-thirds majority would be required.

The CHAIRMAN said that the case in question was not provided for in the rules of procedure. Perhaps the Chilean representative would consider bringing that omission to the attention of the Economic and Social Council. It would be for the Council to consider what action was required if a decision of the Commission was called in question at a subsequent meeting. His personal view was that important procedural questions such as the one before the Commission should be decided, as in the General Assembly, by a two-thirds majority.

Mrs. MENTHA (India) explained that she had voted for deferment of the decision on the Yugoslav draft resolution because the matter was becoming involved.

In reply to the Australian representative, she would say that, in her view, the Covenant itself represented the first step towards implementation. When a State signed the Covenant it would be recognizing its obligation to implement the rights proclaimed therein, and her delegation hoped that some international machinery would be set up to ensure that States did implement and observe those rights. That machinery should not, however, be provided for in the body of the Covenant, but in a separate instrument.

Mr. SÖRENSEN (Denmark) challenged the Chilean representative's contention that the Commission was going back on the decision taken the previous year. At its sixth session, the Commission had decided to include in the draft First International Covenant certain measures of implementation in respect of the civil liberties defined in articles 3 - 18. The General Assembly had then rejected the idea of limiting the draft First International Covenant to so narrow a field, and had asked the Commission to embody economic, social and cultural rights as well in the draft Covenant. True, the Commission was at the moment considering a draft Covenant, but not the draft First International Covenant. The difficulty experienced by delegations in forming their opinions about the Yugoslav proposal (E/CN.4/551) was due to the fact that they did not know what the ultimate content of the draft Covenant would be.

Miss BOWIE (United Kingdom), referring to the Indian representative's statement that it was unnecessary to include any international measures of implementation in the Covenant and that such measures could be incorporated in a separate instrument, emphasized that her delegation considered that the Covenant must be more than a simple declaration; otherwise article 1 would be only a re-iteration - though, perhaps, a more precise one - of the Universal Declaration of Human Rights, by which the General Assembly had called upon every individual and every organ of society, by progressive measures, national and international, to secure the universal and effective recognition and observance of human rights.

Mr. VALENZUELA (Chile) pointed out that at its sixth session the Commission had taken a formal decision. Hence it seemed to him that an affirmative vote by a two-thirds majority of the members of the Commission would be necessary before it could reverse that decision. It was true, of course, that there was a gap in the rules of procedure, and he agreed that it was for the Economic and Social Council to remedy that defect.

The CHAIRMAN announced that the Danish delegation had submitted an amendment (E/CN.4/559) to the United States proposal (E/CN.4/557), and that the Danish and French delegations had submitted a joint proposal on implementation (E/CN.4/560). The Commission might consider adjourning until the text of those documents had been distributed.

Mr. CASSIN (France) remarked that the Commission would have made no more progress in the question by the time it met again; and he wondered whether, if it could not take a decision on the issue of principle, it would decide to go on with the study of item 3(c), or to take up the study of item 3(a) of the agenda. His delegation was prepared to accept the majority view and to follow either of those courses.

The Commission decided by 9 votes to 2 with 6 abstentions to adjourn until the following morning.

The meeting rose at 4.45 p.m.