

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.237 77
3 July 1951

FRENCH

ORIGINAL: ENGLISH AND FRENCH

Dual Distribution

COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND THIRTY-SEVENTH MEETING
held at the Palais des Nations, Geneva,
on Friday, 11 July 1951, at 10.00 a.m.

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Present:

Chairman: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLUM
Chile	Mr. SANTA CRUZ
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 BONIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CLASULLO
Yugoslavia	Mr. JEVREMOVIC

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educational, Scientific and Cultural Organization	Mr. BJALETTE

Representatives of non-governmental organizations:Category A

International Confederation of Free Trade Unions	Miss SENDER
World Federation of United Nations Associations	Mr. BALDWIN

Category B and Register

Caritas Internationalis	Mr. PATERKIN
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Mrs. SCHLUDER
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Association of Penal Law	Mr. POSNER
International Bureau for the Unification of Penal Law	Mrs. ROBINCIANO
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOMLINSON
International Federation of University Women	Miss ROBB
International League for the Rights of Man	Mr. BALDWIN
International Union of Catholic Women's Leagues	Miss ARCHIBALD
Liaison Committee of Women's International Organizations	Miss ROBB
World Jewish Congress	Mr. BILHENSENFELD Mr. RIEGNER

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):

(b) Inclusion in the Covenant of provisions concerning economic, social and cultural rights:

1. General clause concerning economic, social and cultural rights
(E/CN.4/618) (continued)

The CHAIRMAN invited the Commission to continue its examination of the new French text (E/CN.4/618) for the general clause.

Mr. SANTA CRUZ (Chile) felt that in view of the importance of the question under consideration it might be well to give some further explanation of his delegation's attitude, to show that it was a sound one.

A Cartesian concern for logic had led the French representative to the conclusion that it was only reasonable that the articles on economic, social and cultural rights should be preceded by a general clause. At the outset, the idea had been to embody in the Covenant a clause on the lines of article 22 of the Universal Declaration of Human Rights, which served as a kind of "umbrella" for the succeeding articles. Since then, the French proposal had undergone a change. In its latest version, the first three paragraphs, constituting the preamble, contained concepts which might be usefully retained for insertion in other parts of the Covenant, and discussed by the Commission in due course. The fourth paragraph, constituting the operative part, tacitly implied the preparation of a separate Covenant, with obligations in respect of economic, social and cultural rights distinct from those laid down in connexion with the other rights, and subject to additional limitations.

In support of that procedure, it had been argued that certain economic, social and cultural rights could not be implemented automatically and immediately. No one would deny that the full realization of the right to education or the right to social security, for example, would require time and certain prior conditions. On the other hand, it had been pointed out that the

exercise of the other rights should not and could not be subject to any delay, and that in such cases implementation must be automatic.

The fear that the Covenant might be interpreted as requiring the immediate implementation of all the various rights was groundless, in view of the safeguard clauses already adopted. In the limitation clause adopted the previous day, the Commission had recognized that rights could be limited under the law to satisfy the requirements of "general welfare in a democratic society". That was an implicit admission that immediate implementation was not being insisted on. In the same way, article 1, paragraph 2, of the draft Covenant allowed the contracting Parties "a reasonable time ... to give effect to the rights" not already in force. Hence there was no point in specifically mentioning in the Covenant the idea of progressive realization, since it was already there.

There was another danger inherent in paragraph 4 of the French proposal. On the strength of it, all governments might take refuge behind considerations of expediency to whittle away, practically to nothing, their obligations with regard to all rights.

Mr. WHITLAM (Australia) acknowledged the pertinence of the Chilean representative's arguments, but considered that the main point that the Commission must keep in mind was that at the present juncture it was drafting substantive provisions, the inter-relationship of which would be examined later.

In the Australian delegation's view, the positive and dynamic character of the French proposal would give meaning to all the articles on economic, social and cultural rights. A general clause so drafted would become part of the Covenant, figuring therein not as a separate entity, but as one of the elements of a single whole. The question whether that clause should be examined in relation to the preamble of the Covenant might be discussed later.

Criticism of the proposal had been mainly addressed to the words "the maximum of their available resources" and the word "progressively" in paragraph 4. He would emphasize that the text of that paragraph harked back to article 22

of the Universal Declaration of Human Rights, to which the General Assembly, in its resolution 421 (V), had explicitly referred as the Commission's measuring-rod in its task of giving clear expression to economic, social and cultural rights. Furthermore, the term "available resources" signified not only those resources which were actually available to a State, but also those which might be made available to it. He was under the impression that the Chairman, in his capacity as representative of Lebanon, had indicated that the United Nations programme of international co-operation could not be taken into consideration by the Commission, and that all the issues involved therein fell within the competence of higher organs. But surely, whether as government representatives or as experts, the members of the Commission could recognise a de facto situation in a provision which imposed certain positive commitments on governments.

The idea expressed in the word "progressively", which must be taken in conjunction with the words "full realization of the rights", was not a static one. It meant that certain rights would be applied immediately, others as soon as possible. After all, the immediate implementation of any right or measure such as, for instance, old age pensions, was a practical impossibility. His delegation therefore believed that the concept of progressive realization was of positive value and should be retained. He was prepared to vote for the general clause, because it expressed a firm stand on the realization of rights. It went without saying that the task of harmonizing the various parts of the Covenant must be tackled later.

Mr. CASSIN (France) said that his delegation had always held the view that the First International Covenant on civil and political rights should constitute a standard Covenant, the provisions of which concerning the undertakings of States and measures of implementation could be taken as a model when other covenants were being prepared. That view had not changed, since the General Assembly had requested the Commission to prepare a single Covenant, and his delegation would therefore vote against the inclusion of

provisions concerning non-discrimination in respect only of economic, social and cultural rights, for the draft Covenant already contained one such article applicable to all categories of rights. Similarly, the French delegation had agreed that the limitations applicable to the right of association, as set forth in article 16 of the Covenant, made the inclusion of identical provisions on that topic in a general clause unnecessary.

Economic, social and cultural rights were not inferior to the others. But in view of the different concepts of their nature and of the methods by which they should be implemented held by different countries, and of the fact that a longer period of time was often required to ensure their enjoyment (in France, for example, it had taken no less than forty years to evolve a more or less complete system of social security), the necessity for a general clause was obvious.

He agreed with the Australian representative that modifications might be introduced later, when the Commission had a complete text at its disposal.

The revised French text had only been drafted after consideration, in particular, of the statements made by the representatives of China, India and the Soviet Union. It closely followed Article 22 of the Universal Declaration, but omitted the phrase "in accordance with the organization of each State". The expressions "individually", "international co-operation", "resources" and "progressively" could not be dropped. The reference to individual effort on the part of States involved financial, social and legislative considerations. The phrase "international co-operation" referred to financial and technical assistance, such as the assistance provided by the International Labour Office in the field of social insurance. The expression "to the maximum of their available resources" had been intentionally placed after "international co-operation", the limitation which it implied being eased by the word "maximum". Finally, the phrase "full realization" was used to emphasize the fact that States could not make do with rights "on the cheap".

As to the word "progressively", the realization of economic, social and cultural rights always took time, and ratifications of the draft Covenant would not be facilitated by ignoring that fact. Furthermore, if the provisions of the general clause were too strict, the Covenant would be a magnificent monument but, like all monuments, entirely devoid of life.

To sum up, the new text for the general clause proposed by his delegation expressed the willingness of States to fulfil their undertakings in accordance with their available resources and within a reasonable time.

Mr. JEVREMOVIĆ (Yugoslavia) recalled that his delegation had originally submitted a proposal for the general clause (E/CN.4/609) which had laid upon governments the obligation to ensure to everyone the enjoyment of economic, social and cultural rights. The text of that proposal had been short and clear. He agreed with the Chilean representative's argument that a general clause was, in any case, unnecessary, and that it became even more so when expressed in purely literary terms which carried no legal obligations. The first three paragraphs of the French proposal could in all fairness be described as *hors d'air*; paragraph 4 was covered by paragraph 2 of article 1 of the Covenant. Furthermore, he would once more reiterate that such a general clause was dangerous, in the sense that it accentuated the tendency to provide a separate section in the Covenant for economic, social and cultural rights.

Time and again he had drawn attention to the weaknesses of a text like that of paragraph 4. The word "progressively" introduced a notion of gradual realization, which was already clearly expressed in article 1 of the Covenant. Representatives who defended that term were starting out from a wrong premise. The Covenant existed; the general concept of fundamental human rights was at least three centuries old, and well-organized communities had had ample opportunity to put it into practice. Were three more centuries to elapse with no action taken? Surely governments must be asked to assume their obligations without further delay. The arguments about the difficulties that

under-developed countries would experience were quite irrelevant, since no-one would censure them if their economic circumstances hampered the full implementation of the Covenant by them.

In the light of all those considerations, and maintaining that the Commission need only re-examine paragraph 2 of article 1 of the Covenant, he formally moved the adjournment of the debate under the provisions of rule 45 of the rules of procedure.

Mr. SØRENSEN (Denmark) opposed the motion for adjournment because, in his view, paragraph 2 of article 1 of the Covenant was inapplicable to the articles on economic, social and cultural rights. He was unable to agree with the Chilean representative's arguments on that point.

He recalled that when the Commission had discussed the matter at its sixth session, some members had expressed the opinion that the general rule in international law should apply, namely, that States parties to the Covenant should take the necessary legislative steps to give effect to the Covenant before ratifying it. The majority had, however, decided that that general rule was not to be recommended in the case of the First International Covenant on Human Rights, and the provision in paragraph 2 of article 1 had been adopted on the understanding that the "reasonable period" mentioned should be only a transitional period of, say, two years. But so short a period was not long enough for countries which had no social security schemes or public health services or free, compulsory education. Consequently, if economic, social and cultural rights were linked up with paragraph 2 of article 1, the transitional period would affect the whole Covenant, with the result that the application of Part II, containing the articles on civil and political liberties, would be delayed. That was a very serious consideration.

Mr. CLASULLO (Uruguay) supported the motion for adjournment. In order to take the Danish representative's comments into account, article 1, paragraph 2, of the draft Covenant should be reviewed at the appropriate time.

The Yugoslav motion that the debate be adjourned was rejected by 10 votes to 6 with 2 abstentions.

ASHI Bey (Egypt) explained why he had abstained in the vote on the motion. He had at the outset proposed that consideration of the general clause be deferred until after measures of implementation had been studied, but he no longer felt able to advocate such a course, at a time when the Commission was about to take a decision.

Mr. DUPONT-WILLEMEN (Guatemala) considered that the French proposal was undoubtedly the most felicitous of those which had been submitted to the Commission. The first three paragraphs met the desiderata of the representatives of the International Labour Organisation. It had been necessary to stress in a preamble the point that economic, social and cultural rights, which were an expression of economic and social democracy, should be placed on an equal footing with civil and civic rights, which were more frequently invoked, and were the expression of what might be termed political democracy.

The text of paragraph 4 was the outcome of a praiseworthy attempt to reconcile various trends of thought. Many of the points made in it recalled the joint amendment previously submitted by the delegations of Chile, Egypt and Guatemala.

The word "progressively" was not really dangerous. It should enable certain States to ratify the Covenant, even if they were quite unable to implement its provisions forthwith. It did not in any way mean that States whose social development was adequate would not be bound by the obligations laid on them in the Covenant. It was all a matter of good faith. If socially developed States failed to fulfil the obligations they assumed, they would be guilty of contravening the Covenant, and their action would incur censure from the Human Rights Committee.

AZMI Bey (Egypt) recalled that he had previously requested that the first three paragraphs be deleted, and submitted certain amendments to paragraph 4; moreover, the place in which that paragraph should appear in the Covenant was to be decided later.

After hearing the French representative's explanations, he supported the revised French text proposed down to the words "available resources". He requested the Commission to vote on certain parts separately, namely: on the preamble (paragraphs 1-3); on the first part of paragraph 4, down to the words "international co-operation"; on the expression "to the maximum of their... resources"; on the word "progressively"; on the addition of the words "if necessary" after the word "progressively"; on the Lebanese proposal that the words "to achieving progressively the full realization of the" be replaced by the words "to implementing the"; on the insertion of the words "economic, social and cultural" before the word "rights"; and lastly, on the replacement of the words "... this part of the" by the word "this".

The CHAIRMAN said that before putting paragraphs 1-3 of the French proposal (E/CN.4/618) to the vote, he would state, in his capacity as representative of Lebanon, that he would vote against them, not because he disagreed with their substance, but because he believed that such a text should be inserted in the preamble to the Covenant itself. He strongly supported the arguments advanced by the Chilean and Yugoslav representatives, and held that the whole issue had been prejudged by the addition at the preceding meeting of the article relating to limitations originally submitted by the United States delegation (E/CN.4/610/Add.2), as well as by the phrase: "...rights and liberties recognised and defined above" in paragraph 1 of the new French proposal. Furthermore, the Indian representative had submitted a proposal on which no action had, as yet, been taken.

Paragraphs 1, 2 and 3 of the new French proposal (E/CN.4/618) were adopted by 10 votes to 8, subject to the insertion of the word "and" before the word "prevent" in paragraph 2, and the deletion of the word "and" from before the word "shelter" in the second line, and the transposition of the word "living" to follow the word "spiritual" in the fourth line of paragraph 3.

The first part of paragraph 4, reading: "undertake to take steps, individually and through international co-operation", was adopted by 12 votes to none with 6 abstentions.

The word "available" in the second line of paragraph 4 was adopted by 11 votes to none with 7 abstentions.

The phrase: "to the maximum of their available resources" in paragraph 4 was adopted by 12 votes to none with 6 abstentions.

The CHAIRMAN said that he would next put to the vote the Lebanese proposal that the word "implementing" be substituted for the words "achieving progressively the full realization of".

In his view, as representative of Lebanon, the words "progressively" and "full realization" contradicted one another, whereas the notion of implementation clearly conveyed the sense of gradual achievement, and therefore afforded an adequate safeguard in that respect.

Mr. EUSTATHIADIS (Greece), supported by Mr. CASSIN (France), felt that the French term: "mettre en oeuvre" was decidedly weaker than "assurer".

The Lebanese proposal was rejected by 3 votes to 8, with 2 abstentions.

The word "progressively" in the second line of paragraph 4 was adopted by 11 votes to 5 with 2 abstentions.

The Egyptian proposal that the words "if necessary" be inserted after the word "progressively" in the second line of paragraph 2 was rejected by 7 votes to 6 with 5 abstentions.

AZMI Bey (Egypt) withdrew his proposals for the addition of the words "economic, social and cultural", and for the substitution of the word "this" for "this part of the".

Paragraph 4 of the new French proposal was adopted, as amended, by 12 votes to 7, subject to replacement of the words "the Covenant" by "the present Covenant" in the English text.

The new French proposal for a general clause (E/Ch.4/618), as amended, was adopted as a whole by 10 votes to 8.

Mr. MOISEOV (Union of Soviet Socialist Republics) said that he had voted against the general clause because its acceptance implied the segregation of the articles on economic, social and cultural rights within a separate part of the Covenant with no organic link with the preamble and Part I.

The adoption of a text that had already been rejected at a preceding meeting had only been made possible through a flagrant and unprecedented breach of the rules of procedure. As he had stated at the 236th meeting, a proposal had been submitted which, except for technical shades of meaning, was textually and substantively identical with the proposal already rejected by the Commission.

The CHAIRMAN contended that the assertion that there had been a flagrant and unprecedented violation of the rules of procedure was not in accordance with the facts. Nor was it true to say that the text just adopted was a text which had already been rejected.

Speaking as representative of Lebanon, he explained that he had voted against the French proposal for the reasons he had already given. The General Assembly, he was sure, would not accept it, since it prejudged the point at which economic, social and cultural rights should be included in the Covenant, contained quite unnecessary elements, and was, in fact, superfluous. He reserved his delegation's right to propose the deletion of that text when it came before the General Assembly.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) said he had voted against the final text of the French proposal for the same reasons as the Soviet Union representative. He could not agree that the text that had been adopted differed in any substantive respect from the one that had already been rejected; its first three paragraphs were absolutely identical with those of the rejected text.

The CHAIRMAN observed that he had not spoken of a part or parts of the text, and that what he had said of the whole text could not be contested.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) submitted that although some minor technical changes had been made in the fourth paragraph, there was not a particle of difference between the two texts in substance.

Mr. LAHEED (Pakistan) stated that he had voted against the revised French proposal for the same reasons as the Chairman had given in explanation of his vote as representative of Lebanon.

Mr. YU (China) stated that he had voted in favour of the French text first because he considered it essential to maintain the strict observance of law and order in the Commission's proceedings and to abide by the Chairman's rulings. Secondly, the French proposal was designed to meet a clear need. In his view, it was quite unnecessary to consider whether or not it would be voted down at a later stage.

Thirdly, it was always possible for the phraseology to be revised, perhaps by a drafting committee, before the end of the session. In that connexion he would mention that, in his opinion, certain parts of the first three paragraphs might reasonably be made operative instead of preambulatory.

Mrs. MENA (India) said she had voted in favour of the revised French proposal because of the insistence of the representatives of the specialized agencies on the fact that the text of the Covenant that the Commission was drafting was conditional, and that it was necessary to incorporate such a provision either in each of the articles on specific economic, social

and cultural rights or in a general clause. In her view, the Commission was concerned, not with any action the General Assembly might conceivably take on the text, but with making recommendations to the General Assembly on the basis of its own judgment.

Mr. JEVREMOVIC (Yugoslavia) said that he had voted against the French proposals for reasons which he had already fully explained. He did not agree with its substance, especially that of paragraph 4. It was entirely wrong from all points of view to separate economic, social and cultural rights from the other human rights. Again, no preamble was required for the former rights. Finally, the Commission, as a technical organ of the United Nations, had to carry out the task entrusted to it by the General Assembly. The correct procedure for those who disagreed with the General Assembly's decision was to raise the matter again in that body; the Commission should not be exploited to evade taking action upon that decision.

2. Draft articles on the implementation of provision relating to economic, social and cultural rights (E/CN.4/570/Rev.1, E/CN.4/C.14/2/Add.5)

The CHAIRMAN requested the Commission to consider the draft articles on the implementation of provisions on economic, social and cultural rights contained in documents E/CN.4/570/Rev.1, E/CN.4/C.14/2/Add.5 .

Mr. PICKFORD (International Labour Organisation), speaking at the invitation of the CHAIRMAN, observed that at a previous stage in the Commission's discussions the International Labour Office had been represented by a delegation from its Governing Body and by its Director-General, and that they had expressed certain views on the question of the implementation of the provisions relating to economic, social and cultural rights. It had been hoped that the Organisation could have been similarly represented when the question of implementation came up for discussion, but unfortunately that had proved impossible. In the circumstances, it had been arranged that he should keep the Chairman of the Governing Body delegation and the Director-General closely acquainted with the Commission's deliberations and conclusions in the matter.

The CHAIRMAN noted the position outlined by the representative of the International Labour Organization, and confirmed the Commission's readiness to keep in close touch with the Governing Body and Director-General of the International Labour Office.

Replying to Mrs. ROOSIVALT (United States of America) he confirmed that the interested specialized agencies were being informed that the Commission was beginning its discussions on the question of implementation.

Speaking as representative of Lebanon, he stated that he had revised his original draft articles on implementation (E/CN.4/570) on the basis of the comments made by representatives of the specialized agencies and members of the Commission, by which he had greatly profited. The new draft articles were to be found in document E/CN.4/570/Rev.1

The history of the relations between the specialized agencies, and particularly the International Labour Organization, on the one hand, and the United Nations on the other, would, he felt, throw some light on the basic reason for the very real difference of approach between the suggestions put forward by the International Labour Organization and his own draft articles. Members would recall the lively discussions in San Francisco in 1945 on the exact relation between the specialized agencies and the United Nations, and how an attempt had been made to divest the United Nations so far as possible of original responsibility in the economic, social and cultural fields, and to leave it so far as possible in the hands of the specialized agencies. The debate had centred round the question of whether the Economic and Social Council should be a principal body of the United Nations or a permanent organ of the General Assembly; the result had been a decision, now embodied in the Charter, in favour of the first alternative. Thus, the General Assembly and the Economic and Social Council had continuing responsibility in the economic, social and cultural fields, of which the United Nations could not therefore divest itself. Subsequently, the problem of co-ordinating the responsibilities of the specialized agencies and the United Nations, to ensure that they did not overlap, had arisen. That task had been allotted to the Economic and Social Council, however, and its relations with the specialized agencies were entirely satisfactory.

His approach to the problem of the implementation of economic, social and cultural rights was thus based on the principle that the United Nations must continue to exercise prime responsibility in that field. He none the less recognized that some members of the Commission and some of the specialized agencies took a contrary view. That was the basic issue before the Commission. He believed that where a spirit of goodwill prevailed - and no United Nations body was more amicably disposed towards the specialized agencies than the Commission on Human Rights, and everyone recognized how much the Commission owed to the specialized agencies - that problem of primary responsibility could be solved, and a satisfactory co-ordination of responsibilities achieved.

There were four basic considerations underlying the proposals submitted by his delegation in document E/CN.4/570/Rev.1. First, no action should be taken by the Commission susceptible of weakening the authority of the specialized agencies or of leading to overlapping of activities. He fully subscribed to the dictum of Sir Gulluhaman Myrddin-Ivans, leader of the delegation of the Governing Body of the International Labour Office, that duplication spelt frustration, and frustration spelt all-round deterioration. Secondly, everything must be done to strengthen the hands of the specialized agencies in all matters falling within their respective competencies. Thirdly, nothing should be done to divest the United Nations of its proper responsibilities in the economic, social and cultural fields; and lastly, no effort should be spared to bring about the closest possible co-operation between the specialized agencies and the United Nations in those fields. He was sure that, once the fire of the present and future debates had died down, the problem would be satisfactorily solved. At the same time, he sincerely believed that, in any attempt to reach constructive results, everyone should be guided by those four principles. It must be clear to all that the United Nations could not leave economic, social and cultural matters as the sole responsibility of the specialized agencies, and, further, that in resolution 421 (V) the General Assembly had treated the problem of implementation as an integral part of the whole question of the First International Covenant on Human Rights.

An examination of the articles on economic, social and cultural rights so far adopted by the Commission had led him to the conclusion that it would be by no means correct to assume that their subject-matter fell exclusively within the competency and current field of activity of one or other of the specialized agencies. It was true that the article on social security related to matters which fell within the competence of the International Labour Organisation, which was also concerned with the freedom of association of workers and employers. The allocation of responsibility with regard to the other articles, however, was more complex. The protection of the right to work, for instance, in certain aspects of which the International Labour Office was interested, would depend for its fulfilment largely upon national and international economic planning for full employment. In that field, the main responsibility rested with the Economic and Social Council and its functional and regional commissions. Again, while the right to just and favourable conditions of work fell mainly within the field of the International Labour Organisation, it was nevertheless true that the United Nations, particularly through the Trusteeship Council, the Special Committee on Information transmitted under Article 73e of the Charter and the Commission on the Status of Women, had an interest in securing recognition of the principle of equal pay for equal work. The right to adequate housing had previously been the subject mainly of activities on the part of United Nations bodies, particularly of the Social Commission and of the Economic Commission for Europe. The right to adequate standards of living and the continuous improvement of living conditions had been the subject at least as much of work by the United Nations as by that of the specialized agencies, and its national and international economic planning aspects fell primarily within the field of the United Nations. The right to health fell within the competence of the World Health Organization, but several parts of the article relating thereto in the draft Covenant fell within that of the United Nations. Finally, the article on maternity, motherhood and the rights of children and young persons was as much a matter for the United Nations as for any of the specialized agencies.

In the circumstances, therefore, there was a strong argument for setting up machinery which would be primarily United Nations machinery, but would still provide a place for the activities of the specialized agencies. He would add that any machinery for the implementation of economic, social and cultural rights such as that which his delegation had proposed, and which related to over-all progress made by States signatories of the Covenant within the fields covered by the broadly drafted substantive articles in question, would be wider in its scope than the machinery existing under the constitution of the most interested specialized agency, the International Labour Organization. While the Constitutions of the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and the United Nations Food and Agriculture Organization provided for reports by Member States on their over-all progress in the fields in which those Organizations were interested, the International Labour Organization's Constitution made provision for reports only on matters which had formed the subject of conventions and recommendations of the International Labour Conference. These, then, were some of the prime considerations that were worth bearing in mind in connexion with the problem of the implementation of the provisions on economic, social and cultural rights.

There were also three fundamental principles at the basis of his delegation's approach to the subject: first, that the United Nations must not be divested of its direct responsibility in the field of economic, social and cultural rights; secondly, that there must be periodic reporting in that field by States signatories of the Covenant; and thirdly, that there must be an international organic link between whatever machinery was set up for the implementation of the draft Covenant and the United Nations technical assistance programmes. The last-named was probably the most important, in that it was positive and would be likely to encourage States to sign the Covenant. Many States would welcome evidence of the intention to assist them to live up to the principles of the Covenant.

Finally, it would be noted that the draft articles submitted by his delegation laid upon the Economic and Social Council responsibility for setting up implementation machinery which would not encroach on the sovereignty of signatory States, but which would give them the promise of assistance to enable them to meet their obligations under the Covenant.

Mr. CASSIN (France) expressed his gratitude to the specialized agencies and to the Lebanese delegation for the suggestions they had put forward.

The French delegation felt that in studying measures of implementation, the Commission should not give the impression that economic, social and cultural rights were something quite separate. If special provisions appeared necessary because of the nature of those rights, they should be introduced in the form of derogations from legal principles applicable to all rights. The fact that there were specialized agencies dealing with certain social, economic and cultural rights must not blind the Commission to the fact that other specialized agencies might be set up in due course to deal with particular civil and political rights.

In principle, fundamental responsibility for supervising the exercise of human rights fell to the United Nations, and hence ultimately to the General Assembly, to the Economic and Social Council and to the Commission on Human Rights itself, which would not have completed its task with the preparation of the First International Covenant on Human Rights. The specialized agencies derived their competence from their Constitutions, and from the working agreements concluded between them and the United Nations. With regard to certain human rights, that competence might be described as normal but not supreme. Thus, the technical aspect of the right to work came within the orbit of the International Labour Organisation. But, for example, if in a given country there was an attempt to deny a whole category of persons the right to work, by a measure in the nature of slow genocide, the general competence of the United Nations would come into play. Hence a dividing-line between competences must be drawn - some method of collaboration which would assign ordinary responsibility in most instances to the specialized agencies concerned, while leaving the business of co-ordination to the United Nations.

It should be especially borne in mind that there were States which did not belong to the specialized agencies, and that probably not all the States in the world would become signatories to the Covenant. Such non-signatory States must not be enabled to evade supervision. The United Nations Charter laid the obligation to respect human rights on all States. The Universal Declaration

and the First International Covenant merely clarified that obligation; and States which were not signatories to the Covenant would not be exempt from observing it. Hence the Commission should make recommendations to the Economic and Social Council concerning the implementation of human rights by States that had not signed the Covenant. Since progress in international affairs was linked with reciprocity, there must be some procedure similar to that followed by the International Labour Organisation. States which were not parties to the Covenant should be asked to state by means of periodic reports, why they had not ratified the Covenant, and what they were going to safeguard human rights within their territories.

By means of the general measures of implementation which it had embodied in the draft Covenant, the Commission had contemplated the setting up of an organ before which cases of violation would be brought in the form of complaints. But it had not made provision for what might be called day-to-day supervision. That supervisory task fell to the Commission itself, since under its terms of reference its duty was to study and report on all matters connected with human rights. The Commission was an epitome of all the Members of the United Nations, and it could exercise day-to-day supervision of the implementation of the Covenant all the more effectively in that it was more comprehensive in its membership than were the specialized agencies. He was sorry to see that in the suggestions made by the specialized agencies the fulfilment of such a duty by the Commission had not been envisaged.

To recapitulate - the work of the Commission should be based on the four following principles: whenever it had to examine a measure of implementation relating to economic, social and cultural rights, it should try to find solutions which would be valid for all rights, making the appropriate derogations if need be; it should avoid overlapping with the existing specialized agencies or any which might be set up later; it should make recommendations along the lines of the provisions of the Covenant which would apply to States non-members of the specialized agencies or non-signatories to the Covenant; and it should offer to undertake progressively the study of reports and research in connexion with the observance of human rights, so as

not to allow itself to be divested of the function of guardian of human rights, assigned to it under the terms of the Charter.

At the sixth session, his delegation had put forward a proposal that the various States should make a periodic report to the Economic and Social Council on the exercise of civil rights within their territories. That idea had matured, and there was reason to hope that it would now be accepted in respect of all types of rights.

The CHAIRMAN observed that a procedure had already been established with regard to reporting by non-signatory States, for in resolution 283(X) the Economic and Social Council had decided that it would follow the procedures recommended by the ad hoc Committee on the Implementation of Recommendations on Economic and Social Matters, one of which was that "in regard to treaties, conventions and protocols on economic and social matters, the Secretary-General should ask those members of the United Nations which have not ratified or adhered to them what steps they have taken to do so" (E/1661, para.17).

Mr. PICKFORD (International Labour Organisation) explained that the International Labour Organisation did not request information merely on matters which were the subject of conventions, for article 10 of its Constitution laid it down that the functions of the International Labour Office should include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour, and particularly the examination of subjects which it was proposed to bring before the International Labour Conference, with a view to the conclusion of international conventions and the conduct of such special investigations as might be ordered by the Conference or by the Governing Body.

The CHAIRMAN took due note of the International Labour Organisation representative's observation. In his own remarks on the subject, he had been concerned with examining the extent to which States Members of the Organisation were under an obligation to report.