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Eighth Session  
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Held at Headquarters, New York,  
on Monday, 5 May 1952, at 10.30 a.m.

**CONTENTS:**

Draft international covenants on human rights and measures of implementation:

part III of the draft covenant drawn up by the Commission at its seventh session (basic documentation as in E/CN.4/SR.260; also E/CN.4/635/Add.5, E/CN.4/L.45, E/CN.4/L.53/Rev.1, E/CN.4/L.50/Rev.1, E/CN.4/L.50, E/CN.4/L.93, E/CN.4/L.93/Corr.1) (continued)

<u>Chairman:</u>	Mr. CHARLES MALIK	(Lebanon)
<u>Reporteur:</u>	Mr. HEINZ	Australia
<u>Members:</u>	Mr. NIJOT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG P'ONG	China
	ALAI Bey	Egypt
	Mr. CASSE	France
	Mr. KYROU	Greece

Members (continued):

Mrs. MEHTA	India
Mr. AZKOU	Lebanon
Mr. WAHEED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. RUSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HOJNE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. LILCO	Uruguay
Mr. JEVLEMOVIC	Yugoslavia

Also present:

Miss NUNAS	Commission on the Status of Women
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Representatives of specialized agencies:

Mr. PICKFORD )	International Labour Organisation (ILO)
Mr. MORELLET )	

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss ZENDER )	International Confederation of Free Trade Unions (ICFTU)
	Mr. LEARY )	
	Miss KAHN	World Federation of Trade Unions (WFTU)
<u>Category B:</u>	Mr. WICKOWITZ	Consultative Council of Jewish Organizations
	Mrs. PARSONS	International Council of Women
	Dr. SOUDAN	International Federation of Business and Professional Women
	Miss SCHAEFER	International Organization of Catholic Women's Leagues
	Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
	Mr. PEICE	World's Alliance of Young Men's Christian Association
	Mr. JACOBY	World Jewish Congress
	Mr. RONALDS	World Union for Progressive Judaism
<u>Secretariat:</u>	Mr. HUMPHREY	Director, Division of Human Rights
	Miss KITCHEN )	Secretaries of the Commission
	Mr. DAS )	

/LWVT

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:  
PART III OF THE DRAFT COVENANT DRAWN UP BY THE COMMISSION AT ITS SEVENTH  
SESSION (basic documentation as in E/CN.4/ER.268; also E/CN.4/635/AAA.5,  
E/CN.4/L.45, E/CN.4/L.53/Rev.1, E/CN.4/L.58/Rev.1, E/CN.4/L.90, E/CN.4/L.93,  
E/CN.4/L.93/Corr.1) (continued)

Article 20 (continued)

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) maintained that the joint Lebanese and United States amendment (E/CN.4/L.93) to the Chilean draft amendment (E/CN.4/L.53) was an attempt to weaken the original text of article 20 (E/1992) and was thus contrary to the General Assembly's instructions that the articles should be improved. The same tactics would be employed with such articles as articles 25, 28 and 30. The United States delegation's assumption that the right to work could be implemented immediately only in part was tantamount to saying that the right could be recognized only for some workers and not for others, whereas the Commission's duty was to see that the obligations laid on States covered the greatest possible number of workers. The United States delegation had again distorted the meaning of the USSR draft amendment (E/CN.4/L.45) in an attempt to absolve the State from the obligation to ensure such an elementary right as that to conditions precluding the threat of death from hunger or inanition. Its position in reality masked a wish that there should be a vast permanent reservoir of unemployed so that the great monopolies could dictate their own working conditions and thus continue to make their fabulous profits. A wealth of information from official sources showed that profits were increasing while working conditions in many areas had become intolerable. A study by the FAO (A/AC.35/L.39) bore out that conclusion so far as Africa was concerned. If the United States delegation objected to the minimum obligation stated in the USSR draft amendment, he wondered whether it would be prepared to embody a maximum obligation in article 20.

Mrs. ROOSEVELT (United States of America) said that she had repeatedly made it clear that her delegation did not want the articles to include a limitative clause such as the USSR delegation wished to see in every  
/article,

article, to the effect that the State alone should be responsible for enforcing the rights. Particularly with regard to article 20, the responsibility went far beyond that of the State. Her delegation, furthermore, had felt very strongly that to prevent death from hunger or inanition was not nearly comprehensive enough, and that, in any case, the place for such a clause would be in article 22 rather than article 20.

Mr. CANNON (France) said that the French amendment (E/CN.4/L.90) stood half-way between the two opposing tendencies implicit in the proposals before the Commission. The revised Urugueyan and Yugoslav draft amendment (E/CN.4/L.59/Rev.1) departed too radically from the method already prescribed in the general clause which had become draft article 1; it could not therefore be supported. The guarantee of the right by the State might well appear in a general declaration, but it could not be incorporated in a treaty, as, if it was, no State could conscientiously ratify it. The USSR proposal (E/CN.4/L.45) had a similar disadvantage. Moreover, the fight against hunger and inanition went far beyond the scope of an article on the right to work, and was indeed inherent in the whole of the United Nations' economic and social activities. Such a very general provision would be more appropriately placed in the preamble.

The French proposal (E/CN.4/L.90) had been based upon the Chilean draft (E/CN.4/L.53), which had introduced the idea of the need for full employment; but the form in which the latter was couched destroyed the balance of the recognition of the right and the statement of the obligation, decided upon at the previous session by 16 votes in favour and none against. The text adopted at the seventh session should be retained and improved by addition rather than by substitution. The joint Lebanese and United States proposal (E/CN.4/L.93) merited consideration, as it included the idea of economic expansion as well as that of full employment; but it was too long and it was not couched in the concise form the Commission had decided to employ. While the principle of the Chilean proposal (E/CN.4/L.53/Rev.1) was acceptable, its form was open to the same objection. If the clause was too detailed, there might be a mistaken impression that the Commission had intended -- and had failed -- to make it exhaustive. The French proposal, as a mean between the two extremes, was the most concise, and thus the most consistent with the agreed method of framing the articles, and it departed least from the text already adopted.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) reminded the Commission that he had asked the French, Lebanese and United States Delegations whether they would allow their amendments to be considered as amendments to the original text rather than to the Chilean draft amendment. Thus, the Commission would have been able to express its thought more logically, by voting first on the USSR amendment, the furthest removed because it introduced the idea that the State should guarantee the right, second on the Chilean proposal, which introduced the requirement to implement concretely the enjoyment of the rights, and lastly on the joint and the French proposals, which were additions to the original text and recognized the right without stipulating any obligation by the State. His request had been refused. He was therefore raising the matter again as a point of order. There might be no rule of procedure of the Functional Commissions of the Economic and Social Council exactly applicable to the case under consideration; but there was the analogy of rule 129 of the rules of procedure of the General Assembly which stated that a motion was considered an amendment to a proposal if it merely added to, deleted from or revised part of that proposal. The joint Lebanese and United States proposal (E/CH.4/L.93) and the French proposal (E/CH.4/L.90) could not be properly considered amendments to the Chilean proposal (E/CH.4/L.53/Rev.1); they were in fact completely different proposals. The Chilean proposal stipulated that the State had an obligation to implement the enjoyment of the right. The joint proposal merely stated what programmes, policies and techniques should be included in the steps to be taken to achieve the full realization of the right. Both were, in fact, complete substitutions for the Chilean proposal. Even technically they could not be considered amendments, because the sponsors failed to state what part of the Chilean proposal they wished to add to or delete from. He would, therefore, appreciate a ruling from the Chair that they were amendments to the original text and not to the Chilean proposal.

He proposed that the joint proposal (E/CH.4/L.93) should be amended by the insertion of the words "national and international" between "include" and "programmes", with the consequential alteration of "a State Party" to "the States Parties". He had already explained his reasons.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) said that the joint proposal (E/CN.4/L.93) was certainly an amendment to the Chilean proposal. Its sponsors had found the Chilean proposal inadequate and inappropriate and had wished it to be modified.

Mr. BORATYNSKI (Poland) said that he had already expressed his approval of the Chilean proposal (E/CN.4/L.53/Rev.1), but its wording would be improved by the substitution of the word "guarantee" for the words "implement concretely".

Mr. MOROZOV (Union of Soviet Socialist Republics) agreed with the Chilean representative that the joint Lebanese-United States amendment and the French amendment were independent proposals and could not be considered as amending the Chilean amendment. The USSR amendment was furthest from the original text of article 20 and the Chilean amendment came next. To put those furthest removed texts to the vote after the so-called amendments to the Chilean text would be most confusing.

He had been gratified to note that the French delegation and a number of other delegations had withdrawn their criticism that the USSR text was limitative. The creation of conditions precluding the threat of death from hunger or inanition was certainly a very general objective, but he contested the French representative's conclusion that, as such, it should be included in the preamble. If it was of vital importance to millions of people -- as the French representative admitted that it was -- it should be included in the body of the covenant, whose provisions would be binding on States signatories and not relegated to the preamble, which was merely declaratory. The USSR delegation had emphasized the need to remove the threat of death in the particular context of the right to work, since it felt that that was the absolute minimum that could be guaranteed by States.

To her previous claim that the USSR text was limitative because it called only for measures to prevent death from hunger and inanition, the United States representative had added a new variation on an old theme:

/the USSR

the USSR text was limitative because it referred only to guarantees by States. Since the obligations set forth in the covenant could be undertaken only by the signatories to that instrument, namely States, general exhortations to other bodies, such as United States monopolies, would have no binding force and could serve little purpose. The crux of the matter was that the United States did not wish to assume the obligations in question.

He would not try to convince the United States representative to change her point of view, but he must protest against the unjust criticism of the Soviet text as limitative, when, in actual fact, it reflected the most progressive point of view in the Commission on Human Rights and in the General Assembly. The Commission was on the threshold of a very important decision and the inclusion of an obligation on States to implement the right to work was the basic minimum for a strong article.

In the United States the steeply rising profits and growing production of the large monopolies was accompanied by an increase in the army of unemployed, who were eager to work under any conditions and open to every form of exploitation; that was the situation which the United States wished to sanctify by law and the reason why it was opposing USSR efforts to make the covenant effective.

The joint Lebanese-United States amendment was more tactful and polished than the original United States amendment (E/CN.4/L.82), and if it was considered in isolation from article 20 it might well seem a very acceptable text. Nevertheless, considered in conjunction with the rest of the discussion, its real point was obviously to emphasize that the right to full employment could not be guaranteed immediately, but could be achieved only progressively and partially at some unspecified date. His delegation would therefore vote against the Lebanese-United States amendment as an unacceptable provision still further weakening an already weak article which the General Assembly had asked the Commission to improve.

The French amendment was not as bad as the joint Lebanese-United States amendment, but it too would diminish the force of article 20, since it would condition its application.

/He would

He would be prepared to support the Polish amendment to the Chilean revised text, which in fact amounted to the reinstatement of the original Chilean text (E/CN.4/L.53).

In conclusion, he appealed to delegations which could not vote for an improvement of article 20 at least not to vote for a text which would weaken it.

Mr. EDARE (United Kingdom) drew attention to the common element in the amendment submitted jointly by Uruguay and Yugoslavia and that submitted by the USSR. If States undertook to guarantee the right to work, that would imply that they undertook that henceforth there would be no unemployment in their countries; indeed the representative of the USSR had said that the purpose of article 20 was to do away with unemployment altogether. While every representative was entitled to his own opinion on how to eliminate unemployment and how the economy of other States ought to be organized, the plain fact was that it would not be possible for all the States represented on the Commission to undertake immediately or in the near future that there would be no more unemployment in their countries. Most States, whether developed or undeveloped, would be unable at the present juncture to give such a guarantee, even with the best intentions. Once that fact was admitted, it followed that full employment could be secured only progressively and in conformity with the specific obligations set forth in draft article 1 (amended draft article 19) adopted by the Commission.

He congratulated the Chilean representative on introducing the idea of full employment, but he wondered in what terms it could best be included in the draft covenant. The French formula, though neat, converted article 20 into a recognition first of the right to work and secondly of the need for a full employment policy. To place both concepts on the same level in a single article was to distort the fact that they were not the same and could not be treated on the same level. The right to work was a general concept, whereas full employment was only one method, though an important one, of ensuring the implementation of that right. From a procedural point of view, therefore, the two ideas could best be dealt with in separate provisions; he would have preferred to see some general provision regarding full employment included in the preamble.

/Turning to



Turning to the Chilean amendment, he said that the words "implement concretely the enjoyment of these rights" were ambiguous. Either they implied more than the general obligations set forth in draft article 1 (amended article 19), i.e. a greater degree of immediacy, and were open to the same criticisms as the USSR and Yugoslav-Uruguayan amendments, or they came within the general framework of the undertaking in article 1, to promote the realization of all the rights contained in the covenant, and were superfluous.

The words "and in particular" in the second part of the Chilean amendment would seem to make full employment merely one example of the concrete implementation referred to above, in which case the same difficulties would arise if States were immediately obliged to achieve a policy of full employment. On the other hand, if States were merely required to adopt measures to bring about full productive employment progressively, the Chilean proposal was very similar to the joint Lebanese-United States amendment which had the advantage of being drafted more specifically within the framework of article 1. From the formal point of view he therefore considered that the Lebanese-United States amendment was the best text.

The USSR representative had alleged that the Lebanese-United States text was limitative; while that criticism might have been valid for the original United States text -- though he was convinced that such had not been the aim of the United States delegation -- the joint text avoided that difficulty and went further than had hitherto been attempted in a positive statement on full employment. In other words, any States which successfully achieved the full realization of the right which was the subject of that article must have adopted the measures specified in the joint text. While he was prepared to accept that concept, he wondered if it would be equally acceptable to the under-developed countries as a necessary step to the full realization of the right to work. The covenant would be binding for many years to come and, although some reference to full employment in connexion with the right to work was important, he would have preferred a formulation which would have singled out the measures mentioned in the joint text as a most important rather than as a necessary means of fully implementing that right. Subject to that reservation, he would be prepared to vote in favour of the Lebanese-United States amendment.

/Mr. SANDA CRUZ.

Mr. SANTA CRUZ (Chile) explained that his amendment was intended to go beyond the provisions of the general clause, but it did not go quite as far as the amendments which stipulated that States must guarantee the right to work. It was not sufficient simply to state that steps must be taken to achieve the full realization of the right to work and his amendment should be understood to mean that such steps must be taken immediately. He personally would vote for the provision that States should guarantee the right to work, but his own amendment was intended as an alternative solution in case that provision was rejected. There was therefore no point in the Polish amendment to replace the words "to implement concretely" by the words "to guarantee".

The CHAIRMAN referred to the procedural issue raised by the representative of Chile and the USSR. Procedural difficulties were apt to arise, particularly in the Commission on Human Rights, partly because the rules of procedure were imperfect and could never provide for every contingency, partly because the Commission was dealing with very fundamental and controversial issues and partly because opinion on those issues was fairly evenly divided. In the circumstances, procedural matters assumed tremendous importance and were always closely related to questions of substance.

In the case at issue, rule 60 of the Commission's rules of procedure did not differ materially from rule 129 of the Assembly's rules of procedure. Consequently, the Commission could rely on its own rule which stated: "A motion is considered an amendment to a proposal if it adds to, deletes from or revises that proposal". The case of a total substitution was not specifically mentioned. If the total substitution related to the basic text, then naturally it could be regarded as an amendment. But, in the case of an amendment to an amendment, a proposal in the second for the total substitution of a text proposed in the first could, other things being equal, be regarded indifferently either as relating to the amendment or to the basic text itself. Having regard to rule 61, however, which laid down the principle of chronological order, it could not be said that other things were equal. In the circumstances, those amendments should be put to the vote in the order in which they were submitted. If any other interpretation were accepted it would mean that representatives could make sure that their proposal was voted on first by the simple device of calling it an amendment to some other amendment. In the present case, of course, a time limit was set for the submission of amendments to the basic text, while amendments to amendments were allowed after that date. That might be the

/reason why

reason why some total substitutes had been submitted in the form of amendments to amendments. He ruled that the amendments submitted by Lebanon and the United States (E/CH.4/L.93) and by France (E/CH.4/L.90) to the Chilean amendment (E/CH.4/L.53/Rev.1) could not fairly be regarded as amendments to the Chilean amendment and, as such, be put to the vote first.

Accordingly, he would put the various proposals to the vote in the following order: (1) the joint amendment submitted by the delegations of Uruguay and Yugoslavia (E/CH.4/L.58/Rev.1); (2) the USSR amendment (E/CH.4/L.45); (3) the Chilean amendment (E/CH.4/L.53/Rev.1); (4) the joint amendment submitted by Lebanon and the United States (E/CH.4/L.93); (5) the French amendment (E/CH.4/L.90).

Mr. AÏKOUL (Lebanon) said that he would not challenge the Chairman's ruling. He simply wished to explain that the joint amendment submitted by his delegation and the United States would never in fact have been submitted had it not been for the existence of the Chilean amendment. Consequently, it was a genuine amendment to an amendment. The real test was whether or not the sponsors of an amendment to an amendment would automatically withdraw their text if the original amendment was withdrawn. In the case at issue, the sponsors of the joint amendment would be perfectly willing to withdraw their text if the Chilean amendment was withdrawn.

The CHAIRMAN said that the question was somewhat more complicated than that. For example, if the Lebanese and United States delegations had been quite certain that the Chilean amendment had no chance of being adopted they would probably never have submitted their amendment to it. The purpose was therefore to give the Commission an alternative text, which the sponsors preferred to the text of the Chilean amendment. If the latter were withdrawn, and as a result the joint amendment to that amendment submitted by Lebanon and the United States were also withdrawn, then he as Chairman would have no problem before him. It was obvious that the problem arose precisely because the first amendment was being maintained. In the circumstances, therefore, he felt that he must abide by his ruling, unless it was challenged and overruled. The Commission now had two alternative texts before it, and if it preferred the second, it could always turn down the first, though it be put to the vote before the other.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) said that she would not challenge the Chairman's ruling, although the representative of Lebanon had quite rightly explained that the joint amendment was in fact a genuine amendment to the Chilean amendment. She felt that the word "revises" in rule 60 of the rules of procedure should certainly cover the joint amendment. The Chairman's ruling seemed to alter the Commission's procedure somewhat, since most of the texts it had discussed in the past had in fact been submitted in the form of amendments to amendments.

Mr. CASSIN (France) also said that he would not challenge the Chairman's ruling, although he was convinced that his own proposal was a genuine amendment to the Chilean amendment. In fact, it involved deletions from the Chilean amendment and a contraction of that text, while retaining one of the basic ideas. If the Chairman's ruling was applied in the present case it was very important that it should also be applied to all similar cases in the future so that there would be no discrimination against any particular delegation.

The CHAIRMAN said that as long as it rested with him he would certainly apply the same ruling in the future, namely that if an amendment B to an amendment A was a total substitution for A, then A would be put to the vote before B. However, the Commission always remained the master of its own procedure.

At the request of Mr. BRACCO (Uruguay), the CHAIRMAN put the joint amendment submitted by Uruguay and Yugoslavia (E/CN.4/L.58/Rev.3) to the vote in parts.

The first paragraph of the amendment submitted by Uruguay and Yugoslavia (E/CN.4/L.58/Rev.1) was rejected by 11 votes to 5, with 2 abstentions.

Mr. BRACCO (Uruguay) explained that, in spite of the rejection of the first paragraph of the amendment, the second paragraph could still be put to the vote and, if adopted, it would form an addition to the original text of article 20.

The second paragraph of the amendment submitted by Uruguay and Yugoslavia was rejected by 10 votes to 7, with 1 abstention.

/Mr. BORATYNSKI

Mr. BORCZYŃSKI (Poland) requested that the USSR amendment (E/CN.4/L.45) should be put to the vote in parts, the first part reading: "This right should be guaranteed by the State".

The CHAIRMAN said that he could not take another vote on that phrase since a similar proposal had just been rejected in the form of the second paragraph of the amendment submitted by Uruguay and Yugoslavia.

The USSR amendment (E/CN.4/L.45) was rejected by 9 votes to 3, with 6 abstentions.

The Polish amendment to replace the words "implement concretely" by the word "guarantee" in the Chilean amendment (E/CN.4/L.53/Rev.1) was rejected by 9 votes to 6, with 3 abstentions.

Mr. SANTA CRUZ (Chile) requested a roll-call vote on his amendment. A vote was taken by roll-call.

Egypt, having been chosen by lot by the Chairman, was called upon to vote first.

In favour: Egypt, Pakistan, Uruguay, Yugoslavia, Chile.

Against: France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, China.

Abstaining: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

The Chilean amendment (E/CN.4/L.53/Rev.1) was rejected by 10 votes to 5, with 3 abstentions.

In reply to a point raised by Mr. SANTA CRUZ (Chile) regarding the corrigendum (E/CN.4/L.93/Corr.1) which was apparently to apply only to the French text of the joint amendment, Mrs. ROOSEVELT (United States of America) said that she was prepared to accept the words "economic development" instead of "economic expansion". The corrigendum would therefore apply to the English text as well as to the French text of document E/CN.4/L.93.

/The Chilean

The Chilean proposal to insert the words "national and international" between the words "include" and "programmes" in the joint United States and Lebanese amendment (E/CN.4/L.93) was rejected by 6 votes to 5, with 7 abstentions.

The joint amendment submitted by Lebanon and the United States (E/CN.4/L.93) as orally revised was adopted by 9 votes to 3, with 5 abstentions.

Mr. CASSIN (France) said that there was now no further need for his amendment (E/CN.4/L.90), which he accordingly withdrew.

AZMI Bey (Egypt) requested a separate vote on the first phrase of article 20, reading: "Work being at the basis of all human endeavour".

The first phrase of article 20 was adopted by 15 votes to 2, with 1 abstention.

The article as a whole and as amended was adopted by 15 votes to none, with 3 abstentions.

AZMI Bey (Egypt) explained that he had voted against the first phrase of the article, not because he objected to the idea in principle, but because he objected to its inclusion in the text of a covenant.

The meeting rose at 1.15 p.m.