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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SEVENTY-NINTH MEETING

Held at Headquarters, New York,
on Monday, 5 May 1952, at 3 p.m.

CONTENTS: Draft international covenants on human rights and measures of implementation (E/1992, E/CN.4/654, E/CN.4/654/Add.1 to 6, E/CN.4/655, E/CN.4/655/Add.1 to 4, E/CN.4/656, E/CN.4/660, E/CN.4/661, E/CN.4/800.35, E/CN.4/L.46, E/CN.4/L.59, E/CN.4/L.60, E/CN.4/L.62 and E/CN.4/L.63) (continued)

Chairman:	Mr. MALIK	(Lebanon)
Rapporteur:	Mr. WHITLAM	Australia
Members:	Mr. HIGOT	Belgium
	Mrs. FIGUEROA) Mr. SANTA CRUZ)	Chile
	Mr. CHANG PAONAN	China
	AZMI Bey	Egypt
	Mr. CASSIN	France

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Members (continued):

	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. AZKOUL	Lebanon
	Mr. WAHEED	Pakistan
	Mr. BORATYNSKI	Poland
	Mrs. ROSSEL	Sweden
	Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mrs. ROOSEVELT	United States of America
	Mr. BRACCO	Uruguay
	Mr. JEVREMOVIC	Yugoslavia

Also present:

	Miss MINAR	Commission on the Status of Women

Representative of a specialized agency:

	Mr. HICKFORD	International Labour Organisation (ILO)

Representatives of non-governmental organizations:

Category A:	Mr. LEARY) Miss SEGER)	International Confederation of Free Trade Unions (ICFTU)
	Miss KAHN	World Federation of Trade Unions (WFTU)
Category B and Register:	Mrs. VERGARA	Catholic International Union for Social Service
	Mrs. COUTAN	International Federation of Business and Professional Women
	Miss SCHAEFER	International Union of Catholic Women's Leagues
	Mr. RONALDS	World Union for Progressive Judaism

/Secretariat:

Secretariat: Mr. HUMPHREY — Director, Division of Human Rights
Mr. DAS)
Miss KITCHEN) — Secretaries of the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION (E/1992, E/CN.4/334, E/CN.4/654/Add.1 to 6, E/CN.4/655, E/CN.4/655/Add.1 to 4, E/CN.4/650, E/CN.4/660, E/CN.4/661, E/CN.4/NGO.35, E/CN.4/L.46, E/CN.4/L.59, E/CN.4/L.60, E/CN.4/L.62 and E/CN.4/L.63) (continued)

The CHAIRMAN invited the members of the Commission to explain the votes they had cast at the 270th meeting.

Mrs. ROOSEVELT (United States of America) criticised the practice of certain delegations, namely those of the USSR, the Ukraine and Poland, of launching into unjustified attacks on other countries when giving their opinions on the questions before the Commission. Such conduct entailed an unwarrantable loss of time and she could not help wondering whether it was not prompted by a desire to delay the implementation of the covenant on economic, social and cultural rights by clogging up its production.

She realized that the industrial and financial circles in her country were by no means perfect: she herself had said as much on more than one occasion. It was not at all true, however, that the United States delegation had taken upon itself to be the champion of monopolies in the Commission. Moreover, it must be remembered that a State monopoly of the kind to be found in the USSR was at least as real and important a thing as was any monopoly set up by private enterprise.

Mr. MORozOV (Union of Soviet Socialist Republics) explained that his delegation had abstained in the vote on article 20 because the Commission had rejected the USSR proposal that States signing the covenant should be required to guarantee the right to work and should assume practical obligations with regard to the implementation of that right. The majority decision showed an unfortunate reluctance to fulfil the task that the General

/Assembly

Assembly had given the Commission when it had instructed it to improve the articles of the draft covenant and to provide for more effective guarantees for the implementation of the rights declared in it.

In reply to the United States representative's criticism of his delegation, he stated that the Commission could not be content with a purely abstract and academic discussion of human rights but that it must know how to take into consideration political facts that were constantly developing and that showed, unfortunately, that human rights were not always respected. The USSR delegation had quoted a few statistics simply to show the inconsistency of the attitude of the United States, which on the one hand proclaimed economic, social and cultural rights in theory, while on the other hand defending monopoly interests against the workers.

As for the comparison the United States representative had made between capitalist monopolies and the structure of the Soviet State, it was nothing short of slander. It was only necessary to study the first article of the Soviet Constitution to see that the country was a society of workers and peasants and to draw the conclusion that the United States would be faced with a gigantic task if it wished to transform the system of private enterprise monopolies into an economic organization like that of the USSR.

The CHAIRMAN pointed out that the rules of procedure did not allow delegations explaining their vote to reply to the replies of other delegations once the general debate had closed. He asked the Commission to respect that rule.

Mr. JEVREMOVIC (Yugoslavia) had abstained from voting on paragraph 2 of the article adopted by the Commission, as he considered that the Lebanese-United States amendment (E/CN.4/L.93), though it did not weaken the obligations of States regarding the right to work, did not sufficiently strengthen those obligations or improve the drafting of the article as requested by the General Assembly. The General Assembly had requested the Commission to specify the practical obligations of States with regard to economic, social and cultural rights. Paragraph 2 of article 1 of the covenant, as adopted by the Commission, was no more than an abstract declaration and was not therefore in keeping with the General Assembly's instructions.

/The Yugoslav

The Yugoslav delegation had voted in favour of article 20 as a whole, as adopted at the 278th meeting of the Commission, because it agreed with the ideas expressed in it, despite the fact that the obligations of States were not adequately defined.

Mrs. MEHTA (India) had abstained from voting in favour of the joint Lebanese-United States amendment because she considered it unnecessary to change the original wording of article 20 of the draft covenant. She had, however, voted for article 20 as a whole, since it recognized a basic economic right.

Mr. WHITLAM (Australia) said that his delegation had supported the joint Lebanese-United States amendment because, if the original wording of article 20 of the draft covenant had to be changed, that proposal seemed to him better than the other amendments. His delegation would, however, have preferred to leave the original text as it stood.

Mr. CASSIN (France) had voted in favour of article 20 as a whole to show the importance France attached to the recognition of the right to work. While he would have preferred a simpler draft, he had supported the Lebanese-United States amendment, because despite its rather vague wording it did nothing to lessen the authority of article 1, which the Commission had already adopted and which called for international co-operation for the implementation of economic, social and cultural rights. The amendment had the further merit of linking the idea of economic development to that of full productive employment and of stipulating that the right to work must be ensured in conditions which excluded any possibility of recourse to compulsory labour.

Mr. BORATYNSKI (Poland) had abstained in the vote on article 20 as a whole because the rejection of the USSR amendment meant that the article required no guarantee on the part of States and did not impose on them any specific obligation to respect the right to work.

The United States delegation's hostility to monopolies was shown in its words much more than in its deeds, for it had voted against the Chilean

/amendment

amendment (E/CN.4/L.24) which provided for the protection of the natural resources of under-developed countries against the interference and exploitation of foreign companies.

The CHAIRMAN thought it his duty to point out that the latter part of the Polish representative's statement was contrary to the provisions of the rules of procedure, which did not allow members to reply to replies once the Commission had taken a vote.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) had abstained in the vote on article 20 because the amendments made to the original text of the draft covenant accentuated the purely declaratory nature of the article and did not provide for any guarantee or obligation on the part of States with regard to the right to work.

The CHAIRMAN invited the Commission to turn its attention to article 21 of the draft international covenant on economic, social and cultural rights.

Miss MANAS (Commission on the Status of Women) spoke of the keen interest taken by the Commission on the Status of Women in the question covered by article 21 of the draft covenant. She referred to the work on the question of equal pay for equal work which that Commission had done at its sixth session and to the resolution it had submitted to the Commission on Human Rights (E/CN.6/197) recommending that the covenant on economic, social and cultural rights should contain an article providing for the principle of equal remuneration for work of equal value for men and women workers. That resolution was closely linked to the provisions of article 21 of the draft covenant.

She went on to draw attention to paragraph 23 of document E/CN.4/650, pointing out that the Commission on the Status of Women considered that the term "minimum remuneration" in sub-paragraph (b) of article 21 was too restrictive and that the word "minimum" should be deleted both from the original draft article and from the text proposed by Chile (E/CN.4/L.62). She noted that the USSR amendment (E/CN.4/L.46) asked for the deletion of the same word.

/The Commission...

The Commission on the Status of Women would like the words "for men and women workers" to be added after the words "for work of equal value" at the end of sub-paragraph (i) of paragraph (b) of the Chilean amendment. The same words should be added at the end of paragraph 2 of the Yugoslav amendment (E/CN.4/L.[illegible]). If the Commission did not accept either of those amendments, the words in question should be added at the end of paragraph (b)(i) of article 21 of the draft covenant and the word "minimum" should be deleted.

The CHAIRMAN asked the representative of the Commission on the Status of Women to submit her suggestions in writing.

Mr. [illegible] CRUZ (Chile) pointed out that the first part of the amendment his delegation was proposing to article 21 (E/CN.4/L.62/Rev.1) concerned the principle of non-discrimination in working conditions. The guarantees provided in the general article were not sufficient in the case of working conditions, which actually gave rise to many arbitrary distinctions. There should therefore be a special provision on the matter.

The Chilean amendment would introduce the idea of equal remuneration for work of equal value into paragraph (b)(i) of article 21, where the idea of equal work was not clearly specified. Wages were based upon the actual value of the work and distinctions of race, sex or nationality of workers had nothing to do with the assessment of that value.

The Chilean amendment was designed to bring the text of article 21 of the draft covenant into line with the terminology used by the International Labour Organisation and the Economic and Social Council when speaking of equal remuneration.

He agreed with the USSR delegation that the word "minimum" should be deleted from paragraph (b) of the article.

Paragraph 2 of his delegation's amendment was practically identical with the paragraph the Commission had rejected as an amendment to article 20. He was submitting it because he was not satisfied with the vague statement of obligations and guarantees in article 1, as adopted by the Commission. Article 21 covered a clearly determined right, which required that States should be

/obliged

obliged to establish fair working conditions for all workers without further delay. Workers could not be expected to do without that right until such time as countries had completed their economic development.

He proposed a further amendment to the last paragraph of his amendment, to appear as document E/CN.4/L.62/Rev.2.

Mr. RAMOS (Uruguay) supported the USSR proposal to delete the word "minimum", for the reasons given by the Chilean representative. His delegation had itself submitted an amendment to article 21 (E/CN.4/L.60), to ensure more than a bare minimum for the workers -- to give them, in fact, an adequate standard of living to satisfy their intellectual and moral needs. He was prepared to enlarge upon the subject if any members of the Commission considered it necessary.

Mr. AZKOUL (Lebanon) announced that his delegation was withdrawing its draft amendment to article 21 (E/CN.4/L.59), for it felt that the word "including" in the English text of the draft covenant expressed the same idea quite adequately. All that was needed was to find a more satisfactory expression for the French version than the present words "en ce qui concerne".

Mr. NISOT (Belgium) said that the word "notamment" in the French text seemed to him to do away with any ambiguity on the subject.

Mr. JANKOVIC (Yugoslavia) agreed to the insertion of a sentence in article 21 concerning equal rights for men and women workers, as suggested by the representative of the Commission on the Status of Women (E/CN.4/L.54). Such equality already existed in his own country; he had no objection, therefore, to its being included in his delegation's amendment to article 21 (E/CN.4/L.63).

His delegation was withdrawing paragraph 1 of that amendment, since the Commission had rejected a similar clause in the case of article 20. The purpose of paragraph 2 of its amendment was to give a clear explanation of the meaning of fair wages, an expression which was liable to misinterpretation. To be really fair, wages must be fixed in relation to the cost of living and the profits of the firm employing the workers.

/He reserved

He reserved the right to comment later on the amendments submitted by other delegations.

Mrs. MODIG (Sweden) found the wording of article 21 satisfactory. Her delegation agreed with the sentence about wages and remuneration in the Chilean amendment, since the adoption of that formula would do away with the possibility of conflicting interpretations. The clause on non-discrimination in the same amendment, however, seemed unnecessary, since the Commission had already put in a provision to that effect in paragraph 2 of article 1.

She did not agree with the suggestion of the representative of the Commission on the Status of Women that article 21 should speak of "men and women workers". To explain her attitude she briefly reviewed the development of the problem in the Swedish legislation. Up to the year 1925 men alone had been eligible for public office in Sweden. In 1925 an Act had been passed providing expressly that women should be equally eligible and finally a new Act had been passed in 1945 stating simply that all Swedish citizens were eligible for public office. In the same way, she felt that to retain the word "everyone", bearing in mind the non-discrimination clause in article 1, would be better than any explicit mention of men and women, which might weaken the article.

Mrs. MEHTA (India) also considered the wording of article 21 in the draft covenant to be satisfactory. However, her delegation would support the deletion of the word "minimum" proposed by the USSR (E/CN.4/L.46) and the formula for wages and remuneration proposed by Chile (E/CN.4/L.62/Rev.1). With regard to the suggestions made by the representative of the Commission on the Status of Women (E/CN.4/L.94), she supported the remarks made by the Swedish representative.

She was sympathetic towards the idea expressed in paragraph 2 of the Yugoslav draft amendment (E/CN.4/L.63), but in her opinion the question of profits of undertakings raised difficulties. If, for example, railways were State-owned, as in India, the sharing of profits among employees might give rise to insoluble budgeting problems.

Mr. WHITLAM (Australia) was satisfied with the wording of article 21 of the draft covenant. He would, however, favour the deletion of the word "minimum", as proposed by the USSR (E/CN.4/L.46), and the formula regarding wages and

/remuneration

remuneration proposed by Chile (E/CN.4/L.62/Rev.1). On the other hand, his delegation could not support the other Chilean proposals, nor that of the Yugoslav delegation.

Mr. MOROZOV (Union of Soviet Socialist Republics) was disappointed at the remarks of the Scottish and Indian representatives concerning the suggestions made by the representative of the Commission on the Status of Women (E/CN.4/L.9). The Commission had satisfactorily settled the question of equal pay for men and women during its seventh session, and there was consequently no need to take it up again. Since then, however, there had been little improvement as far as such equality was concerned. That, indeed, was why the Commission on the Status of Women had felt that it should draw the attention of the Commission on Human Rights to the matter. He quoted resolutions adopted by an organization of American women showing how much lower women's wages were than men's in the United States, and statistics respecting civil servants in the United Kingdom. Paragraph 2 of the draft amendment proposed by his delegation (E/CN.4/L.46) called for the insertion of a clause designed to remedy that state of affairs, and he was surprised that certain delegations did not accept the wording it had been given in the USSR draft. He felt that those who refused to adopt that text were seeking to perpetuate flagrant and shocking injustices.

His delegation supported the first point of the Chilean amendment (E/CN.4/L.62/Rev.2), because it was important to insist upon the principle of non-discrimination. The principle of equal pay was recognized by the Constitution of the USSR, so that his delegation was entirely willing that the States signatories to the covenant should accept such an obligation.

Several delegations had already expressed agreement with paragraph 1 of the USSR draft amendment (E/CN.4/L.4). Paragraph 3, which dealt with the right to leisure, was related to the idea expressed in the Uruguayan draft amendment (E/CN.4/L.60), but he considered that it was important to mention "rest" and "leisure" in order to do justice to a right without which no decent human existence would be possible.

/Paragraph 4

Paragraph 4 of the draft USSR amendment was designed to take into account structural differences between the various States: some preferred to guarantee the right to work by means of legislative provisions, others, by means of collective agreements. That paragraph, which he hoped would find numerous supporters, would have the effect of regularizing relations between employers and employees in accordance with the instructions of the General Assembly.

Mr. CASSIN (France), in reply to the Lebanese representative, proposed that the word "including" in the English text of the first paragraph of article 7 of the draft covenant should be translated by the words "comprenant notamment".

With regard to paragraph 1 of the Chilean draft amendment (E/CN.4/L.62/Rev.2), by which a non-discrimination clause would be inserted in article 21, he reminded the Committee that enumeration might lead to exclusion, and that texts were weakened by repetitions. In his opinion the adoption of article 1 made it superfluous to insert the same clause in article 21.

His delegation accepted, not without some reserve, the now classic formula concerning equal pay which the Chilean delegation had embodied in its proposal.

Turning to the question of the phrase "minimum remuneration", he noted that the International Labour Organisation, the Commission on the Status of Women and the USSR and Chilean delegations, among others, were in favour of its deletion; but France possessed legislation on minimum wages, and it seemed difficult to disregard an aspect of the matter that might give rise to a court action. He therefore proposed for article 21, paragraph (b), the formula "a remuneration which provides all workers at least...", which would have the advantage of showing that the Commission called for minimum remuneration but would make it impossible to claim that it was that minimum remuneration which was to serve as a standard.

Paragraph 2 of the Yugoslav draft amendment (E/CN.4/L.63) was, in his opinion, a rather dangerous clause, since it might entitle an undertaking running at a loss to reduce the wages of its employees; furthermore, many undertakings provided public services, and it would not be possible to pay, for example, high wages to post office employees and low wages to railwaymen. Consequently the French delegation could not support that draft amendment.

/On the question

On the question of rest and leisure, he felt that paragraph (c) of article 21 was adequate. The covenant could not go into every detail, and there was no point in expanding it when it was sufficient to state in brief outline the worthy aims which were to be achieved. As for the guarantee of that right, he considered that article 1 made suitable provision for it. The covenant should represent a progressive average; States could not immediately guarantee all its provisions and accomplish the work of centuries at one stroke.

Mrs. ROOSEVELT (United States of America) stated that her delegation considered the text of article 21 of the draft covenant to be satisfactory. She was prepared, however, to accept point 1 of the USSR draft amendment (E/CN.4/L.46) which would delete the word "minimum" from paragraph (b), and the Chilean proposal (E/CN.4/L.62/Rev.2) for the adoption of the words "fair wages and equal remuneration for work of equal value" for sub-paragraph (i) of paragraph (b).

Like the representatives of India and Sweden, she felt that it was not necessary to specify that article 21 referred to workers of either sex, since that was already implied in the general formula "the right of everyone". She would therefore not support point 2 of the USSR amendment. Nor would she support point 3 of that amendment, since rest and leisure were already provided for by the formula "reasonable limitation of working hours and periodic holidays". Lastly, with regard to point 4 of the USSR amendment, she considered that the covenant ought not to lay down as a principle that it was for the State to "guarantee" the right to just and favourable conditions of work, as the most important advantages obtained by workers had often been the result of free discussion between employers and employees. In that field the importance of collective labour agreements should not be under-estimated, nor should private initiative be paralysed.

Regarding the non-discrimination clause the insertion of which had been proposed by the Chilean delegation, she entirely shared the French representative's point of view. Point 2 of the Chilean amendment also seemed superfluous, as the provisions of article 1 which applied to article 21 were more complete and more realistic. She could not support the Yugoslav proposal (E/CN.4/L.63), as it seemed difficult to link the question of workers' wages to that of the profits realized by the undertaking employing them. Nor could she support the Uruguayan

/amendment

amendment (E/CN.4/L.60), which served no purpose, inasmuch as article 24 of the draft covenant dealt with the questions which formed the subject of that amendment.

ABDEL HAY (Egypt) recalled that his delegation had already expressed its opinion, during the seventh session of the Commission, in favour of retaining the expression "minimum remuneration". There seemed to be a difference of conception on that point between representatives of countries where the standard of living was relatively high and those of countries where it was fairly low. The former felt that it would be dangerous to adopt that expression, which might check progressive evolution towards better wages, since minimum remuneration might be considered as a "ceiling" which could not be exceeded. The latter, on the other hand, would like to guarantee that minimum remuneration to all workers. Accordingly it was because he wished workers to be guaranteed that vital minimum, which they were often very far from receiving, that he was supporting the retention of the phrase in question. Furthermore, the French representative had very rightly pointed out that, for countries which had adopted laws fixing minimum wages, the notion of a minimum wage was the only precise legal conception in a very ill-defined field. He would like to study at leisure the formula suggested by the French representative, which might perhaps serve as a compromise between the two opposite conceptions.

Mrs. FIGUEROA (Chile) did not agree with the French representative that repetitions necessarily tended to weaken texts. On the contrary, in the present case repetition would be useful. Some people considered that the general clause was inadequate, and that the specific obligations of the State should therefore be laid down in article 21. Article 20 stated the principle that work was the basis of all human endeavour, although such a declaration was not quite appropriate in a legal instrument. Those who had decided in favour of the adoption of that formula should logically agree to the mentioning in article 21 of an obligation which seemed superfluous to them because it was already expressed in article 1. For her part, she was convinced that a provision emphasizing the vital importance of the right in question should be inserted in article 21.

/The representatives

The representatives of Sweden and India had contended that the expression "everyone" covered all individuals, whether men or women, white or coloured, nationals or aliens. Their position was justifiable, perhaps, from the point of view of abstract logic, but it was not valid from the point of view of applied logic. The covenant should be a legal instrument for resolving concrete problems. One of the most important problems was that of discrimination. The argument of the Swedish and Indian representatives would be sound if the covenant was to be applied in an ideal world in which the problem of discrimination did not arise. Such was unfortunately not the case, particularly in the field of labour. For the benefit of the Swedish representative she recalled that the representative of a Scandinavian country had stated, during the last session of the Economic Commission for Europe, that the wood industry was particularly prosperous in his country, thanks in particular to an extensive utilization of female labour which cost less than male labour.

Thus, it was necessary to be realistic. She therefore urged the abandonment of the objections based on the alleged "repetition" of clauses already figuring in article 1 or on the presence of the expression "everyone", which, it was claimed, eliminated the need for a non-discrimination clause.

Mr. PICKFORD (International Labour Organisation) considered that the word "minimum" was pointless and had a limiting effect in the context of article 21. But it should be made clear that the deletion of that word was by no means aimed at detracting in any way from legislation regarding minimum wages, of which the ILO had always been in favour.

It should be pointed out that legislative measures were not the only possible means for bringing about the conditions referred to in article 21. In many cases, in fact, employers and employees decided those questions by free negotiation and regarded that procedure as a precious right.

The Yugoslav representative had wished for a more detailed statement of the meaning of the phrase "fair wages"; but that would mean that all the factors that entered into the determination of wages would have to be taken into account instead of being satisfied with the mention of only two of those factors, which incidentally did not seem per se likely to give complete satisfaction.

/Miss SENTER

Miss SENDER (International Confederation of Free Trade Unions) considered that the living and working conditions of wage-earners depended less upon legislative measures adopted by Governments than upon organizations whose duty it was to see that those conditions were as satisfactory as possible. The best results would be obtained by means of collective agreements and negotiations between employers and employees, thanks to the existence of genuinely free trade unions. Progressive legislation could, in fact, remain a dead letter if the organizations applying it were controlled by employers, political parties or governments.

Equal pay for men and women workers was desirable, but it should not be obtained by an equalization at the lowest level. It should be clearly stated that that equality should be achieved at a level enabling workers to live a decent life. In countries where trade unions were not free, that equality could be achieved at an inadequate level. She quoted statistics showing the considerable difference between the standards of living in the United States and in the USSR. She stressed the fact that a State guarantee could be dangerous and could turn into complete domination.

A distinction should be made between industrialized and less industrialized countries; for the latter a purpose was perhaps served by the provision of minimum remuneration. But the minimum wage should not become, as often happened, a maximum wage. It was not advisable to link the question of the fixing of wages to that of the profits of undertakings. She approved the Chilean representative's proposal regarding sub-paragraph (i) of paragraph (b), and she hoped that the formula proposed would be adopted by the Commission.

The article adopted would be effective only if there existed really free organizations to see that its provisions were carried out.

The CHAIRMAN informed the Commission that a representative of UNESCO had come specially from Paris in order to take part in the discussions on the articles relating to culture and education, but that he would have to leave New York in a short time. He asked members of the Commission to consider whether it would not be possible, after the examination of articles 21 and 22 and of the Chilean proposal (E/CN.4/L.91), to pass directly to the study of articles 28, 29 and 30.

The meeting rose at 6 p.m.

20/5 p.m.