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Chairman:

Mrs. ROOSEVELT United States of America

Rapporteur:

Mr. Charles MALIK Lebanon

Members:

Mr. JOCKEL Australia

Mr. LEBEAU Belgium

Mr. SAGUES Chile

Mr. CHANG China

Mr. SCERENSEN Denmark

Mr. LOUFI Egypt

Mr. CASSIN France

Mr. CHCCANO Guatemala

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Mrs. MEHTA India
Mr. GOUDARZI Iran
Mr. INGLES Philippines
Mr. KOVALENKO Ukrainian Soviet Socialist Republic
Mr. PAVLOV Union of Soviet Socialist Republics
Miss BOWIE United Kingdom
Mr. FONTAINA Uruguay

Consultants from non-governmental organizations:

Category A

Miss SENDER American Federation of Labor
(AF of L)
Mr. FISHER World Federation of Trade Unions
(WFTU)

Category B

Mr. LEWIN Agudas Israel World Organization
Mr. STEINER Commission of Churches on
International Affairs
Mr. MOSKOWITZ Consultative Council of
Jewish Organizations
Mr. BERNSTEIN)
Mr. BISGYER) Coordinating Board of Jewish
Mr. BROTMAN) Organizations for Consultation
Mr. FRIEDMAN) with the Economic and Social
Mr. GOLDMAN) Council of the United Nations
Mrs. PARSONS International Council of Women
Miss SCHAEFER International Union of
Catholic Women's Leagues
Miss MILLARD Women's International
Democratic Federation
Mrs. LEVY)
Mr. PERIZWEIG) World Jewish Congress

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (E/800, E/CN.4/170,
E/CN.4/170/Add.1, E/CN.4/186, E/CN.4/187, E/CN.4/188)

General debate (continued)

Miss BOWIE (United Kingdom) wished to allay immediately the apprehensions which she believed that she had discerned in the Lebanese representative's intervention.

At the outset of the Commission's work, the United Kingdom delegation had expressed the view that a declaration of human rights ought not to be adopted unless a covenant on that subject was adopted at the same time. In its opinion, it was not enough to enunciate human rights; it was

/essential to

essential to ensure that they were respected. As, however, it had been impossible in practice to submit a draft declaration and a draft covenant simultaneously to the General Assembly, her delegation had not pressed that view and had fully co-operated in drafting the Universal Declaration of Human Rights, which her country had been proud to sign after it had been adopted by the General Assembly at its third session.

Her delegation was more strongly than ever in favour of the adoption of an International Covenant on Human Rights. That Covenant should be adopted as soon as possible in order that the peoples of the world should not lose confidence in the Commission and should be accurately informed about the scope of the rights stated in the Declaration.

Miss Bowie thought that during the current session the Commission should prepare a draft Covenant to be circulated to the Governments for their comments. In view of the fact that it would be impossible to submit the completed work to the fourth session of the General Assembly, her delegation agreed with the Chairman that the Commission should organize its work in such a manner that the final draft of the Covenant could be submitted to the fifth session of the General Assembly, in 1950.

The United Kingdom delegation thought that the preparation of measures of implementation was as urgent as, or even more than, the drafting of the Covenant. It was prepared, however, to fall in with the views of the other members of the Commission if they preferred to begin with the draft Covenant.

With regard to article 4 of the Covenant, the United Kingdom delegation believed that it should be drafted with the greatest exactitude, as it determined what derogations from their

/obligations

obligations the Contracting States would be able to make. She read out the proposal on article 4 submitted by her delegation (E/CN.4/188) and emphasized the need to specify the articles from which States would never be permitted to derogate, even in time of war or other public emergency. She laid stress on paragraph 3 of the proposal, which provided that the Contracting States should inform the Secretary-General fully of the measures which they had taken under article 4, paragraph 1 and the reasons therefor and also as and when such measures ceased to operate. It might be objected that the text proposed by the United Kingdom was not concise enough; it should not be forgotten, however, that too brief a document, which guaranteed nothing to anyone, would be useless. It was impossible to define rights exactly in too short a text.

Miss Bowie noted with satisfaction that the French delegation's views on the principle contained in article 4 coincided with her own. Furthermore, the Danish delegation's suggestions in document E/CN.4/186 were very interesting and deserved thorough examination.

Mr. FONTAINA (Uruguay) defended the plan of work adopted by the Commission against the criticisms advanced by the representative of the Union of Soviet Socialist Republics. That plan was sensible: the Commission had first stated fundamental rights and freedoms; it would now lay down the obligations imposed on States to make their enjoyment effective.

Undoubtedly, the Commission's task was not easy: it was hard enough to bring about agreement between a group of individuals, but it was still harder to do so with regard to a group of countries, especially when those countries were being asked to renounce certain rights previously regarded as inalienable.

The Commission, in his opinion, should above all take into account the realities of human life. If it desired practical results, it should return to the sources of democracy, to the original concepts which had inspired the revolutions of which modern society still bore the stamp. Those revolutions had been made in the name of the freedom of the individual; since that time, personal freedom had increasingly yielded to the encroachments of the sovereignty of the State.

The Commission was called upon to draft a covenant which would effectively establish the principles proclaimed in the Declaration of Human Rights. Its aim was to induce States to recognize and guarantee the freedom of the individual.

The Commission therefore had a technical task to perform first. In order to do that, its members should make every effort to forget their position as representatives of Governments. Their conclusions would be considered by the Governments, which would naturally have the final say.

His delegation would do its utmost to help the Commission in its task and to assist in drafting the covenant during the current session.

The draft would probably fall short of expectations to some extent, but if the Commission succeeded in making the protection by States effective, it would have accomplished its mission.

The CHAIRMAN called upon the representative of the American Federation of Labor, Miss Sender, to make a statement on the draft covenant.

Miss SENDER (American Federation of Labor) pointed out that the Commission had a twofold task. It had to draft a Covenant which, on the one hand, would guarantee, without exception, all the rights proclaimed in the Declaration and, on the other, would obtain the adherence of the greatest possible number of States, or at least of all the Members of the United Nations. The American Federation of Labor was deeply interested in the draft Covenant and would like to have the opportunity to state its views during the examination of the various articles.

With regard to article 4, a list of exceptions to obligations under the covenant, even if reduced to the minimum, would create an unfavourable impression; instead of listing the obligations of States, the draft would appear to show them how those obligations could be evaded.

The Danish delegation's suggestion could be interpreted as an encouragement to Governments to state their reservations at the time when the covenant was being signed or ratified. Each Government would be adhering to a different instrument, as exceptions would vary according to the wishes of States. Such a solution seemed inadmissible.

The American Federation of Labor would, therefore, favour a general limitative clause, such as the one proposed by the French and United Kingdom delegations. Those delegations' proposal was a particularly happy one as it laid down that from some of the articles no derogation would be permitted in any circumstances. Furthermore, it contained a clause obliging Governments to inform the Secretary-General of the United Nations automatically of any emergency measures which they had enacted, and the reasons thereof, and also of the date when such measures would cease to operate.

It was the Commission's duty to preserve the peoples' confidence in the United Nations. The adoption of the Declaration of Human Rights had awakened hopes throughout the world; rights which had been expressly included in the Declaration could not be omitted from the Covenant without causing bitter disillusionment. She mentioned in particular such economic and social rights as trade union rights, the right of collective contracts, etc. Those rights were, or would be, covered by special conventions entered into under the auspices of the International Labour Organization, but that should not exclude them from the basic principles which, if included in the Covenant, would influence the national legislation of States. No essential principle should be left out of the Covenant: the American Federation of Labor had fought for that rule when the Convention on Freedom of Information was being drawn up and it would renew its efforts in the Commission on Human Rights.

As not all the Members of the United Nations belonged to the International Labour Organization, care should be taken that those who did not subscribed also to the principles underlying the International Labour Organization's special conventions, so that the rights of the working masses throughout the world could be protected effectively.

She then replied to a remark made by the United Kingdom delegation at a previous meeting with regard to the implementation of the Covenant. The American Federation of Labor did not believe that the right of petition should be granted to Governments alone. If individual freedom was to be fully guaranteed, the individual and the associations which represented him should be able to present petitions through Non-Governmental Organizations. The question was a delicate one which should be carefully studied. Human rights would be guaranteed only if the

individual could obtain redress for his wrongs: there were cases in which a State could not intervene without creating an international incident; in those cases the Non-Governmental Organization should be able to present petitions directly to the United Nations, as it could do so without risk of conflict.

All those questions would have to be carefully considered if the Covenant, which the Commission hoped to complete by 1950, was truly to become the law of the international community.

Mr. CASSIN (France) emphasized the loyalty of his country both to the Universal Declaration of Human Rights and to the documents which might succeed it.

The French Government had published the text of the Declaration in the Journal Officiel and had thus propagated it not only in France but throughout all French-administered territories; it had undertaken a study of all laws and practices in French territory which might not have been fully consonant with the Declaration. Such a study, which was tantamount to an examination of conscience, should be undertaken in every country in the world.

France was determined to take part in the preparation of the second tablet of the triptych promised to the peoples of the world at the San Francisco Conference, namely the International Covenant on Human Rights. France was of the opinion that the Covenant and the measures of implementation should be submitted to the General Assembly simultaneously. For that reason it had proposed that the Commission should, at its current session, prepare a draft Convention and measures of implementation, the two documents to be submitted for final decision to the General Assembly in the autumn of 1950 following completion of the various drafting stages. Mr. Cassin regretted that it would not be possible to submit the two documents to the General Assembly in 1949; the delay was due to the fact that the session of the Commission had been postponed from January to May 1949.

Mr. Cassin stated that in his Government's view the text of the Declaration should be taken into consideration in drafting the Covenant. In fact, the Covenant to be drafted by the Commission

would make clear the commitments to be entered into by the States signatories in implementing the Declaration to which they had already subscribed. Mr. Cassin feared, however, that it would not be possible to incorporate in the Covenant all the rights expressed in the Declaration since, in the case of some of those rights, international co-operation had not reached such an advanced stage as in others. The Covenant would therefore have to be the first in a series of covenants which would mark the stages of the progress achieved in that field; it should cover only those rights which, by their very nature, would not lend themselves to separate agreements, such as the right to life, to freedom from arbitrary arrest and to freedom from slavery. That would not apply in the case of the rights of labour, which were covered by over seventy international agreements and were the constant subject of consideration by the International Labour Organization, nor in the case of the right to nationality, which would have to be discussed by a number of international conferences.

Mr. Cassin reminded the Commission that when the draft Declaration was first worked out, some members had suggested the inclusion of provisions which others had felt should appear in the Covenant. It appeared that the time had come to fill whatever gaps remained in the Declaration. The delegation of France had no specific views in the matter and was prepared, in the common interest, to give sympathetic consideration to any suggestions which might be advanced with a view to completing the provisions of the Declaration.

Some surprise might have been felt to see the general debate on the draft Covenant begin with article 4, but it should be borne in mind that the scope of the discussion would vary whether it was decided to enumerate the exceptions for each right, or to include a general restrictive clause in a separate article. After some hesitation, the French delegation had concluded that it preferred the latter method, since it feared that if the former were followed the Covenant would become a sort of catalogue of exceptions and the most important rights would be reduced to a minimum. Realism was called for: if it were decided to include in each article a list of possible

exceptions to the rights enunciated, Governments would be prone to seek the widest possible wording with a view to retaining the maximum freedom of action. That method, on the surface the most straightforward, would in fact be an inducement to arrive at a wording so ingenious as to nullify the commitments entered into by Governments.

He admitted that the inclusion of a general restrictive clause, which had originally been proposed by the United States delegation, was not without drawbacks in that it would leave Governments considerable liberty to decide where and when they might infringe the commitments provided for in the Covenant. The French delegation held the view that that liberty could be curbed by two means which were laid down in the draft article 4 it had submitted to the Commission (E/CN.4/187): firstly by listing those human rights which should in all circumstances remain inviolate, and secondly by requiring the States signatories to inform the Secretary-General of the United Nations of any measures taken which violated of the rights and freedoms proclaimed in the second part of the Covenant, the reasons therefor, and the date on which such measures would cease to be enforced. To those two methods could be added a third: an appeal to Governments, out of loyalty to the United Nations, to desist from violating rights such as trade union rights which were the subject of international agreements other than the Covenant.

Mr. Cassin expressed satisfaction that the French proposal relating to article 4 had received the support of the delegations of the United Kingdom and the United States, and also of the American Federation of Labour, and hoped that the Commission would adopt it.

Mr. JOCKEL (Australia) said that his delegation wished to take part in drawing up a Covenant that would be binding and means of implementation which would set up machinery guaranteeing to individuals the freedoms proclaimed in the Declaration of Human Rights. The Australian delegation had clearly stated its position in Paris; that position had not changed.

With regard to the choice between a general limitative clause and the enumeration of possible exceptions, the Australian delegation declared itself unhesitatingly in favour of the latter course, basing its decision on experience gained in the past, particularly in the Third Committee of the General Assembly, where a too hasty solution of the same problem by the choice of a general clause had hampered the work of that Committee and had been partially responsible for its decision to postpone until the next session the examination of the draft Convention on Freedom of Information.

The Australian delegation agreed with the Lebanese delegation that it should be possible to reduce the number of exceptions. Furthermore, it envisaged the possibility of dealing with the problem in different ways, in order to simplify it and facilitate its solution; it might be possible, for instance, to divide the Covenant into different sections, or adopt any other method which might appear practicable in the light of the discussion. He was certain that the Legal Department and other Departments of the Secretariat would not fail to lend their valuable assistance to the Commission in that task.

He felt that satisfactory progress had been made in the discussion of article 4. The delegations of Lebanon, France and the United Kingdom in particular had expressed a view to which the Australian delegation wholly subscribed: that there were certain principles which must in no circumstances be waived. The Commission should agree on a statement of those principles, then concentrate on reducing the number of permissible exceptions to a minimum; if it followed that course, it would be assured of bringing its work to a satisfactory conclusion with the least possible delay.

Mrs. MEHRA (India) declared that her delegation had always earnestly desired the enforcement of the principles proclaimed by the Declaration, in order that every individual could be assured of enjoying the fundamental human rights and freedoms. It was not easy, however, to draw up an international covenant which could be accepted by the majority of countries, if not by all. That task was the more difficult since the Declaration of Human Rights was in no way binding and its acceptance by States was not a guarantee that the rights which it proclaimed ^{would be} respected

by them. Moreover, certain rights proclaimed in the Declaration called for reciprocity: for example, civil rights, the right to freedom of peaceful assembly, of association, and of speech. If a State agreed to guarantee those rights to all persons living within its territory, it could claim that the same rights should be extended to its nationals resident outside its territory and it might conceivably deny those rights to nationals of States which had refused to reciprocate in that respect.

The above example illustrated the difficulties with which the Commission was certain to be faced. It was none the less certain that no effort should be spared in trying to reach a measure of agreement which would secure the largest possible number of signatures to the Covenant. The delegation of India for its part was ready to assist in every way it could.

With regard to article 4, Mrs. Mehta shared, generally speaking, the views which had been expressed by the Australian representative. She considered it advisable, however, not to come to an immediate decision on that subject, as the Commission would undoubtedly make a wiser choice after it had examined the question more thoroughly. The Indian delegation therefore supported the proposal of the USSR representative to proceed with the examination of other articles of the draft Covenant and to begin immediately to study article 5.

Mr. PAVLOV (Union of Soviet Socialist Republics) recalled that nearly six months had elapsed since the adoption of the Declaration of Human Rights by the majority of the members of the General Assembly. Since that time, the position of the USSR with respect to the Declaration had been misinterpreted on several occasions and he deemed it necessary to clarify the situation. The attitude of the USSR towards the Declaration, moreover, was the basis of its attitude towards the draft Covenant under consideration.

He recalled first the part played by his delegation in the discussion and the formulation of the Declaration of Human Rights. Several important articles -- and particularly all that part of the Declaration which established the social rights, the right to work, to rest and to leisure -- had been initiated by the USSR delegation.

It had, furthermore, fought stubbornly against all kinds of discrimination, as much against individuals as against groups or nations. In short, it had endeavoured to obtain the most democratic possible statement of human rights and fundamental freedoms, and to ensure that the Declaration should not only be a proclamation of principles, but an effective instrument to defend those principles.

Unfortunately, the efforts of his delegation had not always been successful. The Declaration had preserved its purely formal character and had remained an abstract document, devoid of any practical value and any legal force.

In addition, it contained serious gaps. The USSR delegation had urged that it should include provisions establishing the obligation to fight against Fascism and Nazism, Fascist propaganda, incitement to hatred and war, and aggression. None of those proposals had been accepted, and that was why the USSR had abstained in the final voting in the General Assembly.

The USSR delegation had further striven to defend the principle of the equality of nations, large and small, and the right of the peoples to self-determination; it had fought to put down discrimination among the peoples. Nothing of that was contained in the Declaration.

The USSR delegation had tried in vain to include some recognition of the right of peoples to their own culture, the use of their own language, and so on. It had put forward proposals to that effect, fortified by the conclusive experience of the peoples of the Union of Soviet Socialist Republics in that field. The Commission had rejected those proposals.

Lastly, the USSR delegation had never ceased to repeat that the Declaration should not only affirm human rights, but should itself be an instrument to be applied, taking into account, of course, the special social, economic and political conditions in each State. It had also said that any violation or limitation of any of those rights was in fact a violation of the Declaration and consequently of the basic principles of the United Nations. There was no trace of that in the Declaration.

The USSR delegation had warned the majority, in Paris, that it would soon perceive its mistake; six months had elapsed since then and the mistake had become obvious. The solemn proclamation of human rights had not contributed to the happiness of mankind. On the contrary,

there were only conflicts, economic crises and unemployment to be seen everywhere. In the United States the number of unemployed had risen, in that short time, from 2 to 3 million; and those were only the official figures, which did not take into account the number of under-employed. The same was true of other countries; for example, in a little country like Belgium there were several hundreds of thousands of people without work. The only exception to that picture was the USSR, which had solved the problem of unemployment once and for all, and the new Peoples' Democracies which were building their societies on foundations which excluded poverty and unemployment from the start.

The Declaration of Human Rights could not remedy such a state of affairs because it paid no regard to reality. It affirmed the right of all to work, while unemployment was spreading throughout the world. It failed to affirm the principle of the equality of rights of the peoples, while whole nations passed beneath a foreign yoke and the masses in the colonial or Non-Self-Governing Territories remained deprived of their independence.

It would have seemed that those facts were enough to prove the cogency of the amendments the USSR delegation had wished to make in the Declaration. But when the USSR delegation had spoken of the need to ensure the application of those rights, it had been told that that was the task of the Covenant. The time had now come to draw up the Covenant. Before approaching that difficult undertaking, the Commission should reflect on what it had achieved so far and on what still remained for it to do.

It was needless to say that the Covenant would only be of value to the extent that it corrected and completed the Declaration of Human Rights. A mere glance at the draft before the Commission was enough to show that that was not the case. In its current form the draft was even less complete and less acceptable than the Declaration.

One first essential point had been omitted: there was no mention of the social rights which, although they were not given enough emphasis in the Declaration, did nevertheless appear in it; the right to work, to education and to leisure. Nor was there any reference to the right to trade union freedoms or the right to social security / or ^{in illness} unemployment

which were the subject of special articles in the Declaration. It might therefore be said that from that point of view, the Covenant was still more restrictive than the Declaration with regard to the affirmation of fundamental human rights.

Must it be concluded that those who had consented to inscribe those rights in the Declaration -- unwillingly and because they could not run counter to the opinion of the working masses in their countries -- refused to do so in the Covenant because they were not ready to guarantee their enjoyment? The Union of Soviet Socialist Republics, for its part, would never accept a compromise on that point and would continue the fight it had waged when the Declaration was being prepared, since it believed that, deprived of the enjoyment of those basic rights, the people would be without the means of improving their living conditions; for them, the Declaration of Human Rights would be simply a delusion.

There was a second serious gap in the draft Covenant; the absence of any provision obliging States to take effective steps and to create the necessary conditions in order to ensure the enjoyment of all the freedoms affirmed. He gave freedom of the Press as an example in support of his statement, and remarked that it was useless to affirm that right unless the peoples, or the people's representative organizations were given the means of enjoying that freedom, i.e. access to the printing presses and the necessary materials.

The third defect of the draft Covenant was that it contained an article according to which the provisions of the Covenant could be applied to Non-Self-Governing Territories only with the consent of the metropolitan countries. In other words, the application of the Covenant to colonial populations would depend on the good-will of the metropolitan Powers. That represented an intolerable curtailment of the rights of millions of human beings; it was incompatible with the basic principles of the United Nations. Mr. Pavlov recalled that during the previous session of the General Assembly, the USSR delegation had submitted proposals on that subject. It was determined to continue its fight until the enjoyment of all fundamental freedoms was guaranteed to the populations of Non-Self-Governing Territories, without any reservation, whether the metropolitan Powers liked it or not.

His delegation reserved the right to submit to the Commission new articles designed to remedy the three serious shortcomings he had pointed out

With reference to the choice between a general limitative clause and an enumeration of exceptions, he remarked that the adoption of a general clause at the present stage of the work would prejudge the problems as a whole and would therefore constitute a dangerous procedure. It would be preferable to examine the exceptions in connexion with each right and to take a decision only when the whole question had been carefully studied.

Mr. Pavlov was against an exhaustive list of exceptions; he also thought it inadvisable to place almost at the beginning of the Covenant a limitative clause which would certainly produce the wrong impression on the public. Rather than to adopt a general limitative clause, he would prefer that to the statement of each right should be added the relevant exceptions, if any, keeping them to the absolute minimum.

He emphasized that the question was not very important, since the truly democratic States would in any case respect human rights in so far as was compatible with their security and the defence of their sovereignty, while States which attached no value to the concept of democracy would always find a means to evade the Covenant if they wished to do so.

The main purpose of the Covenant was to ensure the exercise of rights; the problem of exceptions to those rights was secondary. For that reason he urged the Commission not to take the wrong road, and to leave for the moment the consideration of article 4. The Commission could determine the exceptions when it examined each of the subsequent articles. Only in that manner could it do effective work and fulfil the expectations of millions of persons who believed in the United Nations.

The CHAIRMAN confirmed that during the discussion of the Universal Declaration of Human Rights it had been understood that the Covenant would contain the provisions needed to implement the Declaration, but she did not remember that any promise had been made concerning any specific right.

She invited the Committee to hear a statement by the representative of the World Federation of Trade Unions.

/Mr. FISCHER

Mr. FISCHER (World Federation of Trade Unions) recalled his organization's contribution towards furthering the respect of human rights: it was on its initiative that the question of the violation of trade union rights had been discussed by the Economic and Social Council and that the ILO had drawn up a convention on the subject. When that question was discussed, the WFTU would ask to be heard on that particular point.

At the moment, he wished to make a few general remarks on the draft Covenant on Human Rights.

In his opinion the basic characteristic of the draft Covenant was that it defined the abstract rights of the individual and listed the negative duties of States. It reflected the spirit in which had been drafted the Declaration of the Rights of Man and the Citizen of 1789, as well as the French revolutionary constitutions; since those days there had been considerable social evolution which the draft Covenant appeared deliberately to ignore.

Those constitutional documents had not, of course, been exclusively abstract texts containing a priori notions of the social duties of man, as Burke and the so-called counter revolutionary French historical school had held. Modern historians had refuted that criticism by showing that there was a concrete element in those documents; the reaction against the abuses of absolute royalty, aristocracy and corporatism. If the subject of the rights proclaimed therein seemed an abstract being, it was because he was none other than the moneyed bourgeois, whose special interests had been identified with the general interest.

Since that period, thanks to the increasingly conscious and vigorous activity of the working class, a new social right had been born, investing the individual with the concrete characteristics of social man. All modern labour legislation was a manifestation of that evolution of a new concept, the collective nature of which was increasingly being recognized, and which was that a man's right to work must be complemented by a duty on the part of the State to provide him with work. The draft Covenant on Human Rights did not seem to take all those facts into account.

The French representative had said that it was impossible to repeat the provisions concerning the right to work in the draft Covenant, on the grounds that numerous conventions on the subject, in particular the ILO Convention, had already been drawn up. Mr. Fischer pointed out that

most of those texts were purely technical in character and that some of them were clearly inadequate. The authors of the new French Constitution had found it advisable to include social rights in it, although numerous social laws had been passed before 1946. It would be equally proper to include the right to work in the draft Covenant, as the latter's provisions would receive great publicity and might exercise a considerable influence on the progress and improvement of the ILO's necessarily incomplete work.

For that reason, the WFTU urged that the draft Covenant might be revised to enlarge its scope and to make it accord with the needs of the masses, which were steadily gaining in importance in the social structure of States. Such a method would permit social evolution, which was henceforth inevitable to pursue a peaceful course.

With regard to the consideration of the measures of implementation, simultaneously with the draft Covenant, as the French representative had suggested, Mr. Fischer thought that such an approach would not give free play to the realism and the adaptability which were needed on the international plane. It was necessary first to establish the provisions of the Covenant; only then would it be possible to consider the means of implementing those provisions, some of which might require an altogether special system of implementation. If the WFTU were given the opportunity to do so, it would not fail at the proper time to draw the Commission's attention to certain questions of that kind..

Mr. LEBEAU (Belgium) wished first to reply to the USSR representative's reference to unemployment in Belgium. It was true that a certain number of workers were unemployed; that was a consequence of the fact that Belgium was more prosperous than its neighbours and was a creditor country. That situation had caused some concern to the Government, which was taking steps to remedy it. The living conditions of the unemployed, however, were far from being as tragic as Mr. Pavlov had claimed. Unemployment insurance had existed for several decades and its operation had been improved since the war; thanks to it, unemployed workers and their families did not lack the necessities of life and their living conditions were vastly preferable to those of millions of workers in forced labour camps in the USSR. Mr. Lebeau would be glad to invite the members of the Commission to Belgium to verify that, if Mr. Pavlov would afford them an opportunity to visit his own country.

/Turning to

Turning to the draft Covenant, he reminded the Commission that his country had helped to draft the Declaration and that he had voted for it. The text of the Declaration had been communicated to the Belgian Parliament, where it had been favourably received. National opinion as a whole, however, considered it as a mere recommendation by the General Assembly setting out a common objective: it was therefore far from agreeing with the conclusions of the jurist on the Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations, who had tried to prove, by juxtaposing the Charter and the Declaration, that States had henceforth definite legal obligations in regard to human rights.

As far as his country was concerned, two points were certain: firstly that the Charter laid down as one of the purposes of the United Nations to develop and encourage respect for human rights, and secondly that the Declaration defined those rights: That was the existing situation. His Government therefore attached great importance to the international Covenant on human rights and intended taking an active part in its drafting in the hope that the undertaking would be successful.

The Danish delegation had defined very clearly the dilemma with which the Commission was faced in drafting the Covenant (E/CN.4/186). It could either, so to speak, level upwards by drafting a document which might be admirable from the point of view of the progress of human rights but which would be ratified by few; or it could level down by limiting the Covenant to the few principles and rules which were acceptable to all States, thus considerably reducing its value. Perhaps there was a middle way: that suggested in the second part of the Danish document, which consisted of permitting Governments to make certain reservations when ratifying the instrument. The Covenant could thus, while containing more than the minimum just mentioned, be ratified by a large number of States. It was an excellent suggestion which his delegation wholeheartedly supported.

He agreed with the French representative that the measures for implementation should be drawn up during the current session, so that they could be submitted to the General Assembly together with the draft Covenant.

/With regard to

With regard to article 4, the Belgian delegation would prefer a general limitative clause, so as to prevent the Covenant from becoming an ill-balanced document in which the two or three lines of each article would be followed by a long list of exceptions, which might lead the uninitiated reader to believe that the exceptions were the Covenant's principal objective.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) thought that the main principles underlying the creation and functioning of the United Nations, the maintenance of international peace and security and respect for equal rights for all the peoples, should be reaffirmed in the draft Covenant on human rights.

History had shown that human rights and fundamental freedoms were particularly threatened in time of war. Any incitement to war and any propaganda of hatred should therefore be looked upon as a crime and a violation of human rights and the rights of the peoples. Where war was mentioned in the draft, however, it was not with a view to preventing it but solely as a pretext for restricting human rights, and no reference could be found to the need for all truly democratic countries to fight against any return of Fascism and any renewal of the aggression and slaughter which it always brought in its train.

The principle of equality of the rights of peoples and of their right to self-determination should also be given a place in the Covenant. The rights of the individual could not be dissociated from those of the peoples. Equality of rights applied as much to the peoples as to the individual, without discrimination as to race, language, religion or nationality. Individual rights could not be spoken of as long as a person was deprived of education or the right to read or publish books or papers in his native language. The same rights should be enjoyed by members of the small nations as well as the great ones. Hence the draft Covenant should include provisions for its extension to all colonial territories, in order to guarantee to the millions of human beings who were deprived of all rights the development of their language, their press and their indigenous culture.

The Covenant should be more than a proclamation of rights, like the Declaration; it should provide for concrete measures to give effect to those rights, of course taking into account the political, national and social character of each of the peoples. The mistakes made in the

drafting of the Declaration must not be repeated. It was not sufficient to admit the right to work if the individual was not given the possibility to exercise that right. The Covenant should therefore indicate how the rights it proclaimed were to be put into effect; otherwise it would be merely a hollow sham. Instead of giving first place to the question of the limitation of human rights, the Commission should begin by concentrating on the positive provisions of the Covenant, so as to make of it an effective instrument for the development and practical application of those rights.

The CHAIRMAN asked the Commission whether it would like to begin by considering article 4, or the second part of the Covenant from article 5 onwards.

It was decided by 7 votes to none, with 6 abstentions, to begin by examining article 5 of the draft.

The CHAIRMAN submitted to the Commission the following three proposals regarding the depositing of amendments:-

The USSR delegation suggested that each subsequent day should constitute a time-limit for submitting amendments relating to two articles of the draft coming after article 5.

The United States delegation proposed that the number of articles to which amendments might thus be submitted should be increased to three a day.

The Lebanese delegation suggested that 23 May should be fixed as the time-limit for submitting amendments regarding articles 5 to 15 inclusive, and 27 May for amendments relating to the remaining articles.

The USSR proposal was rejected by 6 votes to 2, with 5 abstentions.

The Commission decided by 9 votes to none, with 4 abstentions to fix, on each of the following days, the time-limit for handing in amendments relating to a group of three articles, the articles coming after article 5 being grouped in threes.

Steps to be taken in the implementation of the draft Covenant:

Lebanese draft resolution (E/CN.4/191)

The CHAIRMAN called for discussion of the Lebanese draft resolution, according to which the draft Covenant should be completed at the current session and then transmitted to Governments; the latter's

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observations should reach the Secretariat by 1 January 1950 at the latest, so that the Commission might resume discussion of the draft at its sixth session and submit it to the Economic and Social Council in time for the draft to be referred to the Fifth Session of the General Assembly.

Mr. LEBEAU (Belgium) asked whether the original text of the draft prepared by the Commission would be sent direct to Governments, or whether it would first be submitted to the Economic and Social Council. In the latter case, it could only be transmitted to Governments after the ninth session of the Council, i.e. at the end of August. Governments of certain countries with limited personnel would not have enough time to prepare their observations, as their officials who dealt with those questions would be fully occupied between September and November with the work of the General Assembly. The time limit of 1 January 1950 should therefore be retarded by one or two months.

Mr. Charles MALIK (Lebanon) considered that the procedure adopted in an analogous case at the second session of the Commission, held in Geneva, should be followed. The first draft should be sent direct to Governments without first being submitted to the Economic and Social Council, to which only the revised draft would be referred. Governments would thus have six months in which to submit their observations.

Mr. LEBEAU (Belgium) pointed out that the Lebanese proposal, thus defined, raised the following two questions:-

1. Was the Secretary-General authorized to transmit direct to Governments, for their observations, a document drawn up merely by the Commission on Human Rights?

2. Was it advisable to consult Governments on a document which had not been approved previously by a principal organ of the Organization, such as the Economic and Social Council?

The Commission was not, in fact, composed of official Government representatives; its membership was of a mixed character. They could certainly speak in the name of their Governments, but if they did so henceforth they would be acting without having received definite instructions. They could also, however, express personal opinions, thus simply taking part as individuals in the Commission's work.

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In those circumstances, and since the document in question was destined to become an international convention, it would be preferable to consult Governments on the matter only after its examination by a representative organ, such as the Economic and Social Council. The Belgian delegation was convinced of the necessity of completing the draft in the shortest possible time, but it felt that that should not obscure the desirability of adopting a procedure which would give the draft the greatest possible chance of success.

The CHAIRMAN decided to adjourn the discussion on that point until the following meeting.

APPOINTMENT OF MEMBERS OF THE COMMITTEE ON COMMUNICATIONS AND OF THE COMMITTEE ON THE HANDBOOK OF HUMAN RIGHTS.

The CHAIRMAN appointed as members of the Committee on Communications the representatives of Chile, Egypt, France, India, Lebanon, Philippines, Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

The Committee on the Handbook of Human Rights would be composed of the representatives of the following countries:- Australia, Belgium, China, Guatemala, Iran, Ukrainian Soviet Socialist Republic.

The Indian and Australian representatives should keep in touch with the Secretariat regarding the meetings of their respective Committees.

The meeting rose at 5.40 p.m.