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Fifth Session

SUMMARY RECORD OF THE HUNDRED AND FOURTH MEETING

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**CONTENTS:** Draft International Covenant on Human Rights (E/800,  
E/CN.4/158, E/CN.4/170, E/CN.4/170/Add.3,  
E/CN.4/202/Rev.1, E/CN.4/204, E/CN.4/207, E/CN.4/208,  
E/CN.4/270) (discussion continued)

<u>Chairman:</u>	Mrs. F. D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. AZKOUL	Lebanon
<u>Members:</u>	Mr. SHANN	Australia
	Mr. LEBEAU	Belgium
	Mr. SAGUES	Chile
	Mr. P. C. CHANG	China
	Mr. SOERENSEN	Denmark
	Mr. LOUEFI	Egypt
	Mr. CASSIN	France
	Mr. GARCIA BAUER	Guatemala
	Mrs. MEHTA	India
	Mr. ENTICAM	Iran
	Mr. INGLES	Philippines
	Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Miss BOWIE	United Kingdom
	Mr. FONTAINA	Uruguay
	Mr. VILFAN	Yugoslavia

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Consultants from non-governmental organizations:

Category A

Miss SENDER American Federation of Labor

Category B

Mr. STEINER Commission of Churches on International Affairs  
Mr. NOLDE

Mr. FRIEDMAN Co-ordinating Board of Jewish Organizations

Mr. MOSKOWITZ Consultative Council of Jewish Organizations

Dr. ROBB International Federation of University Women

Miss MILLARD Women's International Democratic Federation

Mrs. ALETA Catholic International Union for Social Service

Miss SCHAFER International Union of Catholic Women's Leagues

Dr. BEER International League for the Rights of Man

Secretariat:

Mr. J. P. HUMPHREY Representative of the Secretary-General

Mr. E. LAWSON Secretary of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (E/800, E/CN.4/158, E/CN.4/170, E/CN.4/170/Add.3, E/CN.4/202/Rev.1, E/CN.4/204, E/CN.4/207, E/CN.4/208, E/CN.4/270) (discussion continued)

The CHAIRMAN recalled that the first paragraph of article 8 (E/CN.4/270) had been adopted at a previous meeting, and asked the Commission to begin its consideration of the second paragraph.

Mrs. MEHTA (India) proposed the addition of the words "non-political" before the word "crime".

Mr. CASSIN (France) observed that that amendment would have the effect, in France, of excluding treason, which was not a political crime in that country. He suggested amending the French text to read "un crime de droit commun".

Miss BOWIE (United Kingdom) pointed out that the words proposed by Mr. Cassin were not an exact translation of the Indian amendment.

The United Kingdom delegation would oppose any reference to political criminals, since it could not recognize that the holding of political opinions could be a crime. The Convention would contain an article concerning freedom of speech; to recognize in another article that persons could be sentenced because of their political opinions would be a contradiction.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) asked the Indian representative to withdraw her proposal, in view of the difficulties to which it gave rise. The Drafting Committee had decided on a wording which was generally acceptable, and now the whole discussion was being reopened. The Indian proposal raised a number of questions in connexion with national legislations; to endeavour in one article to cover all the different types of national legislation would make it impossible for some States to accept the Convention. The wording proposed by the Indian representative would exempt traitors from punishment in the form of forced labour and for that reason was unacceptable to the USSR delegation.

Mrs. MEHTA (India) wished her proposal to be considered further. The question was important; in discussing that problem she was speaking from experience. If the French amendment were not accepted she would take up again the United States-Indian proposal for the last sentence: "provided that hard labour may be exacted only as a penalty for serious non-political crimes".

The CHAIRMAN put to a vote the Indian proposal to add the words "non-political" before the word "crime".

The proposal was rejected by 7 votes to 6, with 1 abstention.

Mr. ENTTEZAM (Iran) explained that he had voted against the proposal, although he agreed in principle that political crimes should be excluded, because in his country it was difficult to distinguish between political and non-political crimes. /

Mr. CASSIN (France) withdrew his proposal.

Mr. SOERENSEN (Denmark) pointed out that as the paragraph stood, it appeared to recognize servitude as a punishment.

Mr. AZKOUL (Lebanon) thanked the Danish representative for raising the point, which he himself had endeavoured to raise in the Drafting Committee. In some countries servitude was considered to be synonymous with imprisonment, but in others that was not so, and as the text of the Covenant would be translated into many languages, care should be taken to avoid confusion. The paragraph contained two affirmations, one categorical, the other conditional. The difference was important and should be maintained.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) considered that if <sup>the</sup>reference to servitude had been left where it was originally, in the first paragraph, the difficulty would have been avoided. He suggested re-establishing the former wording, which was in harmony with article 4 of the Declaration. He could see no reason why the idea of servitude should be linked with that of punishment; in his view a person could not be sentenced to servitude or to slavery.

If the Commission preferred to leave the word "servitude" in the second paragraph, he suggested that it should be followed by a full stop and that a new sentence should begin "No one shall be required to perform forced or compulsory labour..."

The CHAIRMAN pointed out that a two-thirds majority would be required to change the first paragraph, which had already been adopted by the Commission.

Mr. GARCIA BAUER (Guatemala) agreed with the USSR representative. He suggested that, to avoid any possibility of confusion between the idea of servitude and that of forced labour, the second sentence should form a separate paragraph.

Mr. CHANG (China) supported the proposal of the representative of Guatemala. He hoped the USSR representative would be satisfied with his second choice for the time being, on the understanding that when the final stage of rearrangement of the text was reached it could be decided whether slavery and servitude should be mentioned in the same paragraph.

Mr. AKOUL (Lebanon) emphasized that three conceptions were embodied in the text: firstly, that of slavery; secondly, that of servitude, as synonymous with serfdom; thirdly, that of forced labour. In order to avoid any possible confusion, he thought the use of the term "servitude" should be avoided in connexion with forced labour.

Mr. SOERENSEN (Denmark) concurred in the proposals made by the representatives of the USSR, Guatemala and China.

The CHAIRMAN put to a vote the sentence: "No one shall be held in servitude".

The sentence was adopted by 15 votes to none.

/The CHAIRMAN

The CHAIRMAN put to the vote the sentence: "No one shall be required to perform forced or compulsory labour except pursuant to a sentence to such punishment for a crime by a competent court."

The sentence was adopted by 14 votes to none, with one abstention.

Mr. SAGUES (Chile) had abstained from voting because in his country there was no such punishment as forced labour. He understood that some countries had reasons for maintaining it, but in his view it was monstrous that such a punishment should be imposed for political crimes other than treason.

The CHAIRMAN put to a vote the following paragraph, beginning: "For the purposes of this article..." and sub-paragraph (a), as adopted by the Drafting Committee.

The Drafting Committee's text was adopted by 10 votes to none, with 5 abstentions.

Mr. AZKOUL (Lebanon) had proposed to return to the original text of sub-paragraph (b), which read: "... provided that the services of conscientious objectors be compensated with maintenance and pay not inferior to what a soldier of the lowest rank receives." He was, however, open to suggestions.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that the Drafting Committee's text went too far in laying down exactly what the pay of a conscientious objector should be. The amended form was entirely different. Some wording might be found to say that a conscientious objector who was doing labour and was paid should not be considered as doing forced labour.

Mr. SAGUES (Chile), while appreciating the lofty motives which had prompted the mention of conscientious objectors, thought the inclusion of the provision would be dangerous. He supported the French text.

Miss BOWIE (United Kingdom) sympathized with the ideas which had led the Lebanese representative to maintain his proposal, but thought it would be inappropriate to go into details of the treatment of conscientious objectors in the article under consideration.

Mr. CASSIN (France) agreed with the United Kingdom delegate that the article should not go into detail regarding the regulations governing conscientious objectors. He felt that, as the Chilean representative had said, some reservation should be made; he suggested the insertion of the words: "in countries where they are recognized". Without some such phrase certain Governments might be unable to ratify the Convention.

Mr. FONTAINA (Uruguay) observed that the problem had two aspects: one involving military service in time of peace in countries where it existed; the other concerning service in time of war. The article should state specifically that it referred only to time of war. In his view the paragraph should be entirely redrafted to take into account, first the fact that the problem did not exist in many countries, secondly the situation in time of peace, thirdly cases of national emergency where it was no longer a question of service to the State but of the defence of the sovereignty of the country.

Mr. ENTEZAM (Iran) shared the views of the representatives of France and Uruguay. In fact, he would have preferred that the question of conscientious objectors should have been omitted from the Covenant as there were numerous countries which did not recognize that concept. His vote, therefore, would be conditional upon the inclusion of the French amendment.

Mr. LOUTFI (Egypt) said that his views coincided with those of the representative of Iran. In Egyptian legislation the concept of the conscientious objector did not exist but if the French amendment was adopted he would vote in the affirmative in deference to the legislation of other countries.

Mr. CHANG (China) felt that the objection to killing on grounds of conscience was a very noble idea, but he wondered how many countries actually recognized it. If the number was found to be very small perhaps the Covenant should mention that fact, unless it wanted to encourage the recognition of the concept of the conscientious objector.

The CHAIRMAN thought that modern means of transportation and travel would spread concepts and traditions which, in the past, had been held by only a limited number of countries. Immigration and other factors contributed to the dissemination of ideas and the possibility of rapid development in that field would have to be taken into consideration in the drawing up of the Covenant.

Mr. AZKOUL (Lebanon), supporting the Chairman's remarks, felt that the Commission should take into consideration the fact that the concept of the conscientious objector was not a dying tradition but the beginning of a growing movement. The idea should be included in the text although there were States which did not recognize it, just as the Covenant referred to slavery although it no longer existed. The misgivings expressed by some delegations that the proposed text might imply the inclusion of the concept of the conscientious objector in their national legislations was unfounded. The French amendment made it clear that it was applicable only to those countries which already recognized that principle.

The Lebanese representative was gratified to note that the representatives of the United Kingdom and France interpreted the text as meaning that conscientious objectors would be accorded the same treatment as other citizens subject to compulsory military service. He therefore proposed that the following words should be added: "provided that the services of conscientious objectors be carried out in conditions equal to those accorded to all other citizens subject thereto".

The CHAIRMAN suggested that the Lebanese proposal might be combined with the French amendment.

Mr. CASSIN (France) asked that a separate vote be taken on his amendment, as he could not accept an amendment to his text.

Mr. AZKOUL (Lebanon) said that if it would facilitate the Commission's work, he would withdraw his amendment on the understanding that the interpretation given by the amendments of France and the United Kingdom was accepted.

Mr. ENTEZAM (Iran) remarked that his delegation could not accept an interpretation by another delegation except when such an interpretation became the opinion of the Commission as a whole after the question had been discussed and a decision adopted.

/Mr. FONTAINE (Uruguay)

Mr. FONTAINA (Uruguay) and Mr. Garcia BAUER (Guatemala) endorsed the remarks of the Iranian representative.

Mr. SAGUES (Chile) said that he could not support the French amendment and would prefer to retain the original text as his country did not recognize the concept of the conscientious objector. He proposed that the article should be voted on in parts so that the reference to the conscientious objector could be voted upon separately. National military service in peacetime was obligatory in Chile at a certain age, and was considered indispensable to national security.

Mr. AZKOUL (Lebanon) stated that he had accepted the interpretation given by the representatives of France and of the United Kingdom in order to facilitate the Commission's work and for reasons of a purely technical nature. He felt that the wording used by those two delegations would reflect exactly the meaning of the terms employed in both English and French-speaking countries. However, as the opinions expressed showed that a different interpretation was possible, he wished to maintain his amendment.

Mr. PAVLOV (Union of Soviet Socialist Republics), on a point of order, said that the Drafting Committee's text should not be voted upon first, as it was the text on which the Commission's work was based. The Commission should vote on the amendment which was further removed from the original text.

The CHAIRMAN said that as both the French and Lebanese amendments would have to be voted on, the order in which that was done was of no great consequence. However, the French amendment could be put to the vote first, as it was perhaps the one further removed from the original text.

The French amendment to insert the words "in countries where they are recognized" was put to the vote.

The French amendment was adopted by 8 votes to 2, with 6 abstentions.

The Lebanese amendment to insert the words "provided that the services of conscientious objectors be carried out in conditions equal to those accorded to all other citizens subjected thereto" was put to the vote.

The Lebanese amendment was rejected by 3 votes to 1, with 12 abstentions.

Mr. AZKOUL (Lebanon) said that, as his amendment had been rejected, he proposed the insertion of the sentence used in the Drafting Committee's text.

/The CHAIRMAN



The CHAIRMAN put to the vote the Lebanese proposal to insert the following sentence "provided that the service of conscientious objectors be compensated with maintenance and pay not inferior to what a soldier of the lowest rank receives".

The Lebanese proposal was rejected by 5 votes to one, with 10 abstentions.

The CHAIRMAN then put to the vote, in parts, sub-paragraph (b) of the Drafting Committee's text.

The first part of sub-paragraph (b) reading "any service of a military character" was adopted by 14 votes to none, with 2 abstentions.

Mr. SAGUES (Chile) requested a roll-call vote on the next part reading "or, in the case of conscientious objectors" because of the grave responsibility involved in the case of those countries which did not recognize that concept.

A vote was taken by roll-call as follows:

<u>In favour:</u>	Belgium, Denmark, Egypt, France, India, United Kingdom, United States of America.
<u>Against:</u>	Chile, Guatemala, Iran, Uruguay.
<u>Abstaining:</u>	China, Philippines, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

Mr. INGLES (Philippines) said that his delegation had abstained from voting so as not to prejudice the final position of the Philippines Government in the matter, as the problem of conscientious objection had not arisen in his country. However, the Philippine representative felt that the inclusion of that concept in the Covenant might involve the national security of his country.

The sentence "exacted in virtue of laws requiring compulsory national service" in sub-paragraph (b) was adopted by 10 votes to none, with 6 abstentions.

Sub-paragraph (b) as a whole was adopted by 7 votes to one, with 8 abstentions.

The CHAIRMAN then put to the vote sub-paragraph (c) reading: "any service enacted in cases of emergency or calamities threatening the life or well-being of the community".

Sub-paragraph (c) as a whole was adopted unanimously.

/The CHAIRMAN

The CHAIRMAN asked the United Kingdom representative to comment on the amendment submitted by her delegation.

Miss BOWIE (United Kingdom) said that the joint United States-Indian proposal originally contained the words "minor communal services" which the United Kingdom delegation felt should be included in the text because it had a different meaning to "normal civic obligations". For that reason, her delegation had proposed its insertion anew.

Mrs. MEHTA (India) said that the two ideas of "minor communal services" and "normal civic obligations" should be maintained separately in the Covenant as had been done in the Forced Labour Convention of 1930.

Mr. PAVLOV (Union of Soviet Socialist Republics) asked for an explanation of the exact meaning of the expression "normal civic obligations". He cited as an example countries where, for reasons of tradition and customs, rural communities devoted a few days each year to repairing the roads. Care should be taken to avoid relegating the traditional customs of communities to the field of compulsory labour.

Mr. INGLES (Philippines) thought that perhaps the authors of the amendments might explain the meaning of "normal civic obligations" and "minor communal services". The "minor communal services" were unknown in the Philippines, and with regard to the meaning of "normal civic obligations" he felt that it was already included in paragraph 3 of the Draft Covenant. Unless those terms were defined there was danger that they might be broadened to include exactly those conditions which the Covenant meant to prohibit.

Miss BOWIE (United Kingdom) said in reply to the USSR representative that minor communal services were those in which each individual played a relatively minor part; full-time service should not be made obligatory upon anyone, as minor communal services usually were.

In answer to the Philippine representative she said that "normal civic obligations" were obligations devolving upon members of organized townships or communities, whereas the term "minor communal services" had been defined by the ILO as "Local services where it is traditional to perform such services in the interest of the community, such as services on minor public works or for transport of public officials and stores, provided that they shall be abolished in the shortest time possible". It was that definition which appeared in the United Kingdom alternative proposal.

/s/ Mr. CASSIN

Mr. CASSIN (France) found a mention of "minor communal services" essential. Of the States represented on the Commission, seven had signed the 1930 ILO Convention on Forced or Compulsory Labour and were bound by its provisions. While the Covenant might contain the provisions of that Convention in an abridged form, it should not take up one and leave out the other, or it would be difficult for States parties to the ILO Convention to ratify the Covenant. He therefore urged the Commission to list both normal civic obligations and minor communal services among the exceptions to what was to be considered forced or compulsory labour.

Mr. VILFAN (Yugoslavia) said that the French representative's remark had reminded him that his own country was a signatory of the ILO Convention. He failed to see, however, why the broader phrase, "normal civic obligations", should not also include "minor communal services". In his opinion, the United States-Indian amendment adequately covered the whole situation.

The CHAIRMAN remarked that a distinction between the two terms was made in the ILO Convention. She herself, however, shared the view of the Yugoslav representative.

Mr. GARCIA BAUER (Guatemala) thought that the ILO Convention itself confused the two terms, inasmuch as the paragraph defining minor communal services said that they could "be considered as normal civic obligations". Nevertheless, so long as the article was modelled after the ILO Convention, both terms should be included to avoid future misunderstanding.

He pointed out that, since the Indian representative herself opposed the inclusion of the phrase "minor communal services", there was no motion to put that phrase into a separate paragraph. That was, however, a matter of drafting which could be dealt with at a later time.

Mr. LEBEAU (Belgium), in reply to the Yugoslav representative, read out sub-paragraphs (b) and (e) of article 2 of the ILO Convention (E/CN.4/234), dealing with normal civic obligations and minor communal services respectively. The distinction between the two was that minor communal services were not to be considered forced labour only if the

/members

members of the community or their direct representatives had the right to be consulted in regard to the need for such services. There was no such stipulation with respect to normal civic obligations, which were incumbent upon the citizens of fully self-governing countries.

Mrs. MEHTA (India) called attention to the fact that the ILO itself, in the provision reproduced in the United Kingdom alternative proposal, urged that minor communal services, which it described as "local services", should be abolished in the shortest time possible. If such was the attitude of the ILO, it seemed clear that the Commission should not include a mention of such services in the draft Covenant.

Mr. PAVLOV (Union of Soviet Socialist Republics) observed that what had at first appeared to be a matter of drafting was actually one of substance. The words "normal civic obligations" in the United States-Indian amendment obviously included minor communal services such as were performed in most villages. The insistence on the use of the latter term as well was explained by the fact that colonial Powers wished to perpetuate the distinction made in the ILO Convention between the populations of sovereign States and those of Non-Self Governing Territories; in their minds, the term "normal civic obligations" applied to the first, and "minor communal services" to the second.

Mr. Pavlov was quite unable to accept a distinction on that basis. Provisions which might have been considered satisfactory in 1930, when the ILO Convention had been adopted, were no longer acceptable if -- as was the case -- they were contrary to the principles proclaimed in the Universal Declaration of Human Rights, adopted in 1948. The Commission therefore had to choose between perpetuating the errors of 1930 and adhering to the spirit and letter of the Declaration.

Mr. VILFAN (Yugoslavia) stated that it was plain that the ILO Convention established a distinction between self-governing and non-self-governing countries; normal civic obligations devolved upon the citizens of the first, while they could not be imposed upon the inhabitants of the second. Where local self-government existed in non-self-governing countries, minor communal services, when freely accepted by the population, were not considered to be forced or compulsory labour.

The distinction was based on the concept that in non-self-governing countries normal civic obligations could be imposed on the national level without the population's consent; only if that distinction was to be maintained was it necessary to include in article 8 a separate reference to minor communal services. As he was opposed to that distinction, he would vote in favour of the United States-Indian amendment, reserving the right of his Government to take a stand with respect to the ILO Convention.

Mr. CASSIN (France) remarked that the constitution which his country had adopted in 1946 was more progressive and humanitarian than even the Declaration of Human Rights. France was prepared to accept even more liberal measures; the ILO Convention by which it was bound was shortly to be revised and would no doubt be improved. It should be noted, however, that some of those who criticized it had not only not adhered to it but refused to recognize its humanitarian character. Thus, the aim of sub-paragraph (b) of article 2 of that Convention had been to ensure that civic obligations were not imposed on inhabitants of Non-Self-Governing territories for the very reason that those inhabitants were constitutionally unable to give their consent. The reference in that sub-paragraph to fully self-governing countries was a safeguard for the inhabitants of colonies. Sub-paragraph (e), on the other hand, referred not exclusively to communities in non-self-governing Territories, but to villages all over the world; it applied to France as much as to Africa.

Mr. FONTAINE (Uruguay) thought that the provisions of sub-paragraph (e) were meant to apply to a different kind of communal work rather than to a different kind of population. A possible solution might be for a representative of one of the countries which were parties to the ILO Convention to move the inclusion in article 8 of the entire text of that sub-paragraph.

Mr. LEBEAU (Belgium) fully associated himself with the remarks of the French representative. He could only protest against the slur cast by the USSR representative on the good faith of colonial Powers, particularly with respect to the ILO Convention, the purpose of which was to do away with forced or compulsory labour everywhere. The only

reason sub-paragraph (b) of article 2 of that Convention specified "citizens of a fully self-governing country" was that only those citizens, who were able to express their consent, could, under the Convention, assume normal civic obligations; the same obligations, if imposed on the inhabitants of a colony, would, under the Convention, be regarded as forced labour and would therefore be prohibited.

Mr. INGLES (Philippines) drew attention to the difference between sub-paragraph (c) of the original text of the draft covenant (E/800), which was based on article 2, sub-paragraph (e) of the ILO Convention, and the United Kingdom alternative proposal. The first set consent by the members of the community as a condition for the imposition of services; the second did not. Furthermore, the United Kingdom alternative proposal contained both a listing of certain services and a recognition of their undesirability, which was implicit in the words, "provided that they shall be abolished in the shortest time possible." The ILO Convention had apparently not succeeded in abolishing them in 19 years, and it was impossible to tell how much time would be needed for that purpose. He therefore greatly preferred sub-paragraph (c) of the original text of the draft covenant to the alternative proposal of the United Kingdom.

The CHAIRMAN put to the vote the United Kingdom amendment to insert the words, "minor communal services or", before the words "normal civic obligations" in the United States-Indian amendment.

The United Kingdom amendment was rejected by 9 votes to 5, with 2 abstentions.

The CHAIRMAN put to the vote the United States-Indian amendment, which was a total substitution for sub-paragraph (c) of the original text and which, if adopted, would become sub-paragraph (d).

The United States-Indian amendment was adopted by 15 votes to none, with 1 abstention.

The CHAIRMAN then put to the vote the whole of article 8 as amended.

The whole of article 8 as amended was adopted by 13 votes to none, with 3 abstentions.

Mr. FONTAINA (Uruguay) stated that he had voted for the article, but with a reservation with respect to sub-paragraph (b).

Mr. CASSIN (France) explained that he had abstained from voting on article 8 because countries which were parties to the ILO Convention might find it difficult to ratify a covenant with different provisions on the same subject.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that he had voted in favour of article 8 because that article, in its present form, represented a refusal on the part of the Commission to recognize a distinction between superior and inferior human beings established in the ILO Convention. The Commission was to be congratulated on a real achievement.

The meeting ends at 3.45 p.m.