

COMMISSION ON HUMAN RIGHTS
Fifth Session
SUMMARY RECORD OF THE HUNDRED AND FIRST MEETING

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	Mr. SAGUES	Chile
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Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. PAVLOV	Union of Soviet Socialist Republics
Miss BOWIE	United Kingdom
Mr. MORA	Uruguay
Mr. VILFAN	Yugoslavia

Representatives of Specialized Agencies:

Mr. METALL	International Labour Organization (ILO)
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Consultants from Non-Governmental Organizations:

Category A:

Miss SENDER	American Federation of Labor (AF of L)
Mrs. MEAGHER	World Federation of Trade Unions (WFTU)

Category B:

Mrs. VERGARA	Catholic International Union for Social Service
Mr. NOLDE	Commission of Churches on International Affairs
Mr. FRIEDMAN	Co-ordinating Board of Jewish Organizations
Mrs. ROBB	International Federation of University Women
Mrs. GRANT	International League for the Rights of Man
Mr. SCOTT	
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mr. PERLZWEIG	World Jewish Congress

Secretariat:

Mr. HUMPHREY	Representative of the Secretary-General
Miss KITCHEN	Secretary of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

Additional articles concerning economic and social rights (E/CN.4/313, E/CN.4/333) (continued)

Mr. SHANN (Australia) recollected that the end of the 18th century and the beginning of the 19th had seen the gradual recognition of the fact that man must not be subject to the whims of his rulers but that he had certain inalienable rights. The principles of liberty, equality and fraternity, proclaimed by the French Revolution, appeared in the Constitution of the United States and in that of the USSR. Those same

/principles

principles were also traditionally accepted by the British Commonwealth. The industrial revolution had made it clear that those rights were inadequate and that man could not enjoy them if he lived in misery. Many States had gradually introduced into their legislation systems of grants and provisions designed to protect the worker against exploitation.

The question was to decide whether the world had attained a level of evolution where it was possible to declare that the individual had true rights and the State formal responsibilities in that field.

Mr. Shann read Article 55 of the Charter and emphasized that the United Nations had bound themselves to act collectively and individually to promote the welfare of the peoples. Australia believed that the time had come to realize those promises by giving effective recognition to man's economic and social rights and by guaranteeing to every individual at least the possibility of a full and decent life. There was no reason to fear that such conditions would kill the spirit of initiative, for man was naturally ambitious; yet despite that natural ambition it was essential to protect the less fortunate and the weaker.

Since economic and social rights had been enunciated in the Declaration and since the Covenant was to ensure the realization in practice of the ideals expressed in the Declaration, there was no reason for States to limit themselves in the Covenant to obligations relatively easy to implement and to avoid the rights which would demand a serious effort on their part.

Australia was proposing six additional articles concerning economic and social rights.

The first of those articles established the right to work. The States had already undertaken commitments in that regard in the Charter, and they had proclaimed the right to work in the Declaration. The war had demonstrated the effectiveness and value of full employment, and it seemed that a return of the trials which the economic crisis had brought about between the two wars might be avoided.

The second article dealt with wages and working conditions: under its terms, States would undertake to establish machinery for regulating those questions where no system of collective bargaining was available. Experience had shown that, left to himself, the worker was all too often the victim of injustice and exploitation. Various countries had already established satisfactory systems in that regard, and it was both possible and desirable that such methods should be adopted universally.

The third article guaranteed the individual the protection of the State in conditions of unemployment, illness and old age. Not only was that protection useful, in that it constituted an economic shock absorber, but it was also highly desirable from the moral point of view since it kept human beings from degradation.

The fourth article concerned the reasonable limitation of working hours. Work was necessary, but it was, after all, only a means, and it was important that individuals should not be compelled to exert themselves to such an extent as to impair their health and efficiency.

In a fifth article, which would lay down the right to education, Australia had preferred to adopt the wording of the Declaration, so as to bring out more clearly the right to freedom of education and the choice of a school. It was imperative that the scourge of ignorance should be combated, for the individual was incapable of enjoying the other recognized rights if he was unable to read and to think in an orderly manner.

Finally, the sixth article established the right to nationality. Its purpose was to prevent acts such as those which had been committed under the Nazi regime, whereby one portion of the population had been arbitrarily deprived of its nationality for racial reasons.

Australia supported in principle the right of women to equal pay for equal work, which was contained in an additional article suggested by the American Federation of Labor and proposed by the USSR. The Australian delegation would, however, prefer that article not to be included in the draft Covenant, so long as the ILO had not completed the work it had undertaken in that field. That work would be finished prior to the completion of the draft Covenant; it would therefore be better to defer action upon that article, as had been done in the case of article 17.

In conclusion, Mr. Shann pointed out that the articles proposed by Australia required Governments to implement the rights in question within each State. The Australian delegation considered that, rather than establishing a special court or commission to provide international supervision of the progress realized, it would be better for the specialized agencies to be instructed to report upon the steps taken by the various States for the implementation of social rights. The practical difficulties of application should not cause the Commission to hesitate in face of the necessity and urgency of including economic and social rights in the Covenant.

Miss BOWIE (United Kingdom), who represented a State whose democratic and socialist Government had already guaranteed the right to work to all its citizens, could not but support the principle of the right to work. She realized that the standard of living was, in general, extremely low and that it could well be raised in many countries. Pointing out that the problem was linked to the long history of political and economic development, she noted that the United Kingdom was very fortunate in that respect. Other States, however, were still in the initial stages of their development. It was therefore necessary to combat the illusion that a gesture alone would suffice to transform the structure of States from top to bottom, and the Commission must refrain from drafting articles which would make it impossible for many countries to adhere to the Covenant, despite their good will. The United Kingdom delegation would not therefore vote for the immediate inclusion in the Covenant of articles pertaining to economic and social rights.

She pointed out, furthermore, that the question of economic and social rights required most detailed studies, which the Commission was not in a position to undertake, but which, on the other hand, the ILO and the regional economic commissions had already undertaken. The Commission should therefore reserve the USSR proposal for later inclusion

in a second convention on human rights or in an annex to the Covenant under consideration. The United Kingdom delegation would vote for the Danish draft resolution, which would make additional documentation available to the Commission.

With regard to the right of women to equal pay for equal work, the United Kingdom Government had not yet considered that the economic situation within the country would allow the institution of equal salaries for men and women in the civil service. She herself had taken active part in the struggle for women's rights and was optimistic for the future in that respect.

Speaking on behalf of the Commission on the Status of Women, in the absence of Miss Kenyon and at the latter's request, Miss Bowie recalled that the question of equal pay for equal work had been on the agenda of that Commission from its inception, and had been the object of careful examination during its latest session. The Commission had adopted, by a unanimous decision of the 11 members voting, a resolution (E/CN.6/124, paragraph 36) which in particular recognized the special competence of the ILO to deal with that question, and recommended that all Member States should inform the ILO of the steps they were taking to implement the principle of equal pay for equal work.

Mr. CASSIN (France) reminded the Commission that France attached great importance to all the rights set out in the Universal Declaration of Human Rights, and that the French Constitution recognized the right to work and the equality of men and women, especially in work. France therefore considered that economic and social rights should find a place in conventions on human rights.

He had already requested that the instrument in preparation should be called the "First Covenant on Human Rights". That would make it clear that the work was to be continued and that further rights would be guaranteed.

He drew a distinction between economic and social rights and the rights already included in the draft Covenant, in that the recognition of economic and social rights would entail the establishment of an entire system of benefits and would therefore impose considerable financial burdens on States. It would be preferable not to include those rights in the Covenant until the nations as a whole were in a position to apply them in practice.

It would admittedly be essential to provide guarantees eventually for all the rights in the Declaration, including economic and social rights, since man could not think and act freely if he were undernourished or ignorant, or if he did not believe himself to be engaged in useful work. The task ahead was tremendous. The ILO had been working on certain aspects of the problem for thirty years and UNESCO had been made responsible for educational questions. The function of the Commission on Human Rights was to stimulate and to supervise the activities of the specialized agencies, but not to take their place. It did not possess the technical competence or the time to undertake the necessary investigation and work. He therefore urged his colleagues to bear in mind that the Covenant would contain specific and enforceable commitments, and that it would open the door to dangerous disillusion if vague declarations were to be included in the Covenant without any possibility of their implementation being ensured.

He would accept the Danish draft resolution, it being understood that the Commission should endeavour at its following session to complete the first Covenant on human rights by including economic and social rights in it if possible, and that if not, those rights should be the subject of a second convention.

Mr. GARCIA BAUER (Guatemala) considered that the Danish draft resolution should be given priority over the other proposals. The Commission would be in a better position to consider the proposals for articles dealing with economic and social rights when it had taken a decision on the Danish draft resolution. He therefore proposed that the Commission should discuss the Danish draft resolution and decide upon it before it considered the substance of the other proposals.

The CHAIRMAN requested the Danish representative to present his draft resolution and the Commission to follow the procedure that had just been proposed by the Guatemalan representative.

Mr. SOERENSEN (Denmark) admitted that the Danish draft resolution dealt with matters of procedure and method, but he emphasized that it was also closely connected with the substantive questions dealt with in the Australian and USSR proposals.

The draft Covenant would be incomplete if it did not contain provisions for the establishment of an adequate living standard for all. Mr. Soerensen agreed with the emphasis the USSR representative placed upon the necessity of implementing the social rights included in the Declaration, but he shared the view of the representatives of the United Kingdom and France with regard to the methods of implementation. As the French representative had noted, recognition of social rights entailed specific and costly action on the part of the various States.

The Charter proclaimed the goal to be attained: full employment and the raising of the standards of living. All means for the attainment of that goal, however, were not necessarily good. He believed that an adequate guarantee of the right to work must be included within an economic policy, and that that policy must respect the other freedoms, in particular the freedom of opinion and association, and that of the choice of work.

The USSR proposal was intended to guarantee the right to work at the same time as the right to a free choice of occupation; experience had shown, however, that those two rights were often difficult to reconcile, and the USSR delegation did not seem to take sufficient account of the practical difficulties the application of the articles it proposed would raise.

The Danish draft resolution recognized the importance of the economic and social rights set forth in the Universal Declaration of Human Rights; it also recognized that those rights could only be respected in practice through complex legislative and administrative measures. Its purpose was to provide the Commission with documents which would enable it to make a decision at its next session, in full knowledge of the facts.

If the Commission adopted the draft resolution, it could perhaps dispense with a discussion of the proposed additional articles at that stage, since it would be easier for it to decide on them at the next session.

Mr. Soerensen amended the beginning of the enacting clause of the Danish draft resolution to read as follows: "Requests the Economic and Social Council to ask the Secretary-General ...".

Mr. VILFAN (Yugoslavia) thought it was difficult to separate the Danish draft resolution from the draft articles submitted by the USSR and Australia.

He thought that the assertion that the Commission on Human Rights had neither the competence nor the means to provide for the implementation of economic and social rights was fallacious and incompatible with the general methods of the Commission and the General Assembly. There were already many other articles in the draft Covenant which could only be applied through "detailed and complex legislative and administrative measures". Thus, the application of article 9, which prohibited arbitrary arrest and determined the cases in which that prohibition was not valid, would necessitate a careful concording of criminal legislation in the various countries. He asked why, in those circumstances, the economic and social rights should not be included in the draft Covenant immediately.

Naturally, the Commission would not have time during its current session to go thoroughly into the USSR and Australian proposals. It could, however, adopt them provisionally, as had been done in the case of several articles, subject to subsequent improvement of the text.

The Yugoslav delegation thought that the meaning of the articles already included in the draft Covenant would be lost if economic and social rights were left out.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) also considered that the Danish draft resolution was closely connected with the additional articles proposed by the USSR and Australia.

He noted that all the speakers had recognized that the right to work was a fundamental right, without which all the other rights were meaningless. It was, indeed, impossible for men to think freely, to take advantage of freedom of information and generally to enjoy their rights if they could not earn a decent livelihood. The adoption of the articles proposed by the USSR was the more essential in view of the fact that the standard of living of workers had dropped and unemployment figures had increased since the war, especially in the United States. The situation in numerous territories, particularly in the British West Indies, showed that the problem was one of great urgency.

The objections that had been raised to the USSR proposal had little foundation. One objection, for example, was that the Commission on Human Rights was not sufficiently competent. Yet the General Assembly had considered itself competent to include social rights in the Declaration,

/and moreover

and moreover the complete data which would be available to the Commission as a result of the Danish draft resolution would enable it to supplement, if necessary, any text it adopted provisionally. He did not deny the need for "detailed and complex legislative and administrative measures", but those measures should be taken by each Government: the Commission could not tell each Government exactly what it must do.

He could not understand how those who admitted the inadequacy of living standards could assert that it was not possible to find an immediate remedy for that state of affairs. The problem had been solved in the USSR and in the Ukrainian SSR: everyone had the right to work, and from being a bitter obligation work had become a sacred duty shared equally by all; salaries were the same for women as for men. Since there was so much still to be accomplished in so many countries, was not that a further reason for including in the draft Covenant articles that would mean a step forward on the road to progress?

Mr. SHANN (Australia) supported the Danish draft resolution (E/CN.4/333), on the understanding that after its adoption the Commission would refrain from taking any decision regarding the inclusion of the additional articles, would do no more than communicate them to Governments, and would return to the question at its next session, when it would be in possession of the comments of Governments and the survey prepared by the Secretariat.

Mrs. MEHTA (India) supported the Danish draft resolution (E/CN.4/333) which seemed to her to be of great value.

Apart from that question of procedure, however, the Commission had another question to settle; it must decide whether or not it was going to include in the draft Covenant the economic and social rights proposed by the USSR and Australia. The Indian delegation recognized the fundamental importance of those rights, which, moreover, appeared in the Universal Declaration of Human Rights; in its opinion, however, it would be infinitely preferable to provide for the inclusion of those rights in one of the covenants which would be drawn up after the one the Commission was engaged upon. Those economic and social rights entailed considerable financial obligations on the part of States; some countries were still encountering economic difficulties which

would not permit them, despite all their good intentions, to take on commitments of that kind. Those States would be obliged to refuse to accede to a Covenant which they would have ratified eagerly, if the economic and social rights had been left out. That would be India's position, for example, economically and financially weakened as she was by many years of foreign exploitation.

Mr. LOUFI (Egypt) recognized the extreme importance of the economic and social rights, but was in favour of postponing the consideration of such serious and complicated matters, which were worthy of detailed study.

The Egyptian delegation therefore supported the Danish proposal.

In answer to a remark by Mr. CHANG (China), who pointed out that the Danish draft resolution had nothing to do with the question of including the new additional articles in the Covenant, the CHAIRMAN explained that at the morning meeting the Commission had decided to vote provisionally on the additional draft articles; a Danish draft resolution had subsequently been placed before it; that resolution was of a procedural character and introduced a new element, since it proposed to request the Secretary-General to prepare "a survey of the activities of other bodies of the United Nations and their specialized agencies in matters within the scope of articles 22 to 27 of the Universal Declaration of Human Rights" -- which dealt with the economic and social rights -- "for the purpose of enabling the Commission to determine what future action it should take in these fields".

Mr. CHANG (China) was afraid the Danish draft resolution might be less satisfactory than it appeared at first sight and might by-pass the real question, which was the inclusion of the economic and social rights in the Covenant. It seemed to him that the survey provided for in the proposal would be concerned exclusively with international action in connexion with the implementation of articles 22 to 27 of the Declaration; but, before taking any decision regarding the inclusion of the economic and social rights in the Covenant, the Commission should try to obtain

/information

information on measures taken at the governmental level for the implementation of articles 22 to 27 of the Declaration. In order to improve the Danish draft resolution, therefore, he proposed that the words "of other bodies... within the scope" should be replaced by the words "in connexion with the realization of".

He also proposed that the word "their" before "specialized agencies" should be replaced by the word "the".

Mr. SOERENSEN (Denmark) accepted the second Chinese amendment. He could not, however, support the Chinese delegation's first suggestion because, in his opinion, it would impose too heavy a task on the Secretariat to ask it to obtain information on the implementation at the national level of articles 22 to 27 of the Declaration.

Mr. PAVLOV (Union of Soviet Socialist Republics) was very surprized at the procedure the Commission on Human Rights was following. After having formally decided to take a provisional decision on the articles proposed by the USSR (E/CN.4/313), the Commission had, for no reason, interrupted the consideration of those proposals, in order to take up the Danish draft resolution, which had its own merits, perhaps, but which dealt with a completely separate point. It was quite clear that whatever the result of the voting on the Danish draft resolution, the Commission would still have to decide on the USSR proposals. The Commission should therefore correct the mistaken procedure it had adopted, and return at once to the consideration of the USSR proposals. The time had come for the members of the Commission to speak frankly for or against the inclusion in the Covenant of certain economic and social rights, including the right to work; nothing could absolve them from that obligation.

The arguments put forward against the USSR proposals were as contradictory as they were unsubstantial. In fact, those arguments hardly stood up to analysis and had given him new proof of the justice of the position adopted by his delegation. It was astonishing to hear the representative of the United Kingdom reproach the USSR proposals

/for not going

for not going far enough and justify her opposition to those proposals by such criticism, when such a minimum, however small, would be enough to save the lives of thousands of people in different countries. Nor could he support the point of view of India, which considered, on the contrary, that the minimum would impose too heavy a burden on certain States; in his opinion, if India intended to make a final break with its past of wretchedness and hunger, it must go forward boldly in the way indicated in the USSR proposals.

It was not surprising that the opponents of the USSR proposals, being incapable of producing any valid argument against them, should try to distract the Commission's attention by means of the Danish draft resolution. The Commission should protest against such procedure, and should proceed without more delay to a vote on the articles proposed by the USSR.

The CHAIRMAN recalled that the Commission had decided to vote first on the Danish draft resolution, because it was of a procedural character.

Mr. AZMOUL (Lebanon) recognized the necessity of including in the Covenant on Human Rights those economic and social rights which played an essential part in modern life. In view of the fact, however, that the implementation of those rights would give rise to many complex problems for Governments, the Commission could not take any decision on that matter without first making a very detailed survey of the situation. The delegation of Lebanon therefore supported the Danish draft resolution.

He added that, in his opinion, it would be advantageous to include a special paragraph in the Danish draft resolution, stipulating that the various additional articles would be transmitted to Governments.

Mr. AJUINO (Philippines) said that all members of the Commission without exception agreed that provisions with regard to the respect for economic and social rights would have to be included in the Covenant on Human Rights sooner or later. Their only difference of opinion was on the method of doing so.

/Referring

Referring to the Chinese representative's observations, Mr. Aquino thought that it would be advisable to state that the survey mentioned in the Danish draft resolution was intended to help the Commission to reach a decision on the inclusion of articles on economic and social rights in the Covenant. He therefore formally proposed the substitution of the words "with reference to economic and social rights, particularly those within the scope of articles 22-27 of the Universal Declaration of Human Rights, for the purpose of helping the Commission to provide for their observance in the Covenant on Human Rights" for the words "in matters within the scope...in these fields".

Mr. CASSIN (France) explained that he had never said that the Commission was not competent to deal with economic and social rights.

With regard to the Danish draft resolution, the final part was vague. He therefore suggested that the words "to include these items either in the first International Covenant on Human Rights or in the subsequent ones" should be added after the words "what future action it should take in these fields". That would remove all doubts concerning the Commission's competence and its firm intention of completing the Covenant subsequently by the inclusion of economic and social rights.

Mr. HOOD (Australia) supported the Philippine representative, adding that all those who attached the importance it deserved to the question of economic and social rights should, in his opinion, welcome the Danish draft resolution, the intention of which was simply to enable the Commission to take a decision on that subject with all the requisite information before it.

Mr. Hood also supported the Lebanese proposal.

Mr. WOULBROUN (Belgium) observed that two opposing views had emerged. Some members believed that the principle of the right to work should be included in the Covenant at once, but at the same time they gave no indication of how full employment could be ensured and, in particular, how the right to work could be reconciled with the principle of the free choice of profession. Other members, including Belgium, while recognizing the fundamental importance of economic and social rights, especially the right to work, believed that the Commission could not take

a decision without an exhaustive examination of that very complex question, which the International Labour Organization had been studying for years and which was also on the agenda of a number of organs of the United Nations and a number of specialized agencies. Those members therefore thought that the Commission should postpone that question for the moment and take it up again at its next session, after receiving the replies of the Governments concerning the proposals for additional articles communicated to them in the interim.

After an observation by Mr. SOERENSEN (Denmark), Mr. CASSIN (France) proposed that his own amendment should be amended to read: "in particular for the inclusion of these subjects either in the Covenant on Human Rights or in later conventions".

Mr. SOERENSEN (Denmark) accepted the French amendment in that form, as well as the Lebanese amendment.

Mr. CHANG (China) proposed that the word "a" should be substituted for the word "the" before the word "Covenant" in the Philippine amendment.

Mr. VILFAK (Yugoslavia) proposed that the second paragraph of the Danish draft resolution should be replaced by the following: "Considering that it is necessary to include provisions on this subject in the Covenant on Human Rights".

Mr. PAVLOV (Union of Soviet Socialist Republics) requested that the various amendments to the Danish draft resolution should be distributed in writing in both working languages. He asked for suspension of the debate on that resolution in accordance with rule 49 of the rules of procedure.

It was so decided.

The CHAIRMAN announced that the Commission would continue its examination of the new articles. Before the vote was taken, the representatives of the three non-governmental organizations which had asked to present their views on economic and social rights in general would be heard.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) said that in view of the limited time at the Commission's disposal, the vote on the inclusion of the new articles proposed by the USSR should be taken at once. The Commission had had a thorough discussion of that question and was in a position to take an immediate decision. The representatives of the non-governmental organizations could perfectly well be heard at the following meeting.

Mr. VILFAN (Yugoslavia) pressed for an immediate vote on the USSR proposals.

Mr. HOOD (Australia), supported by Mr. GARCIA BAUER (Guatemala) and Mr. MORA (Uruguay), maintained that the Commission could not logically vote on the USSR proposals (E/CN.4/313) until it had taken action on the Danish draft resolution (E/CN.4/333).

Mr. PAVLOV (Union of Soviet Socialist Republics) opposed the procedure suggested by those three representatives. As he had already pointed out, the Danish draft resolution dealt with quite another question; the Commission certainly need not take a decision on that resolution before voting on the USSR proposal. Moreover, the debate on those proposals might be regarded as completed, since there were no more speakers on the list. In the circumstances, the only proper mode of procedure was to vote on the additional articles submitted by the USSR, as, in fact, the Commission had formally decided to do at its previous meeting.

The CHAIRMAN said that it was true that the Commission had decided to vote on the USSR proposals, but it had not decided when to do so. It was not, therefore, bound to vote at the current meeting.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) did not agree. The Commission had in fact settled the time when the vote should be taken when it had decided to complete the question of the new articles on 16 June -- the date of that very meeting.

The CHAIRMAN ruled that the Commission would not vote on the USSR proposals (E/CN.4/313) until it had taken action on the Danish draft resolution (E/CN.4/333).

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) wanted to know, before he expressed any opinion on the Chairman's ruling, whether the Chairman could assure him that those proposals would be put to the vote the following day.

The CHAIRMAN could only repeat what had already been decided -- that the Commission would first complete the examination of the other items on the agenda and would devote what time remained to the question of the new articles.

Mr. PAVLOV (Union of Soviet Socialist Republics) announced that, in that case, he would contest the Chairman's ruling.

The Commission upheld the Chairman's ruling by 11 votes to 3.

Mr. VILFAN (Yugoslavia) said that he had voted against the Chairman's ruling in the conviction that the Commission could and should take action on the USSR proposals.

The meeting rose at 6 p.m.