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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTEENTH MEETING

held at the Palais des Nations, Geneva,
 on Friday, 27 April 1951, at 3 p.m.

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(resumed from the 209th meeting of the Commission
 and from the 3rd meeting of the Working Group
 on Economic, Social and Cultural Rights)

Present:Chairman:

Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. SANTA CRUZ
China	Mr. YU
Denmark	Mr. SORENSEN
Egypt	AZMI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMIN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. ROSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MOROSOV
United Kingdom of Great Britain and Northern Ireland	Miss BOWIE
United States of America	Mrs. ROOSEVELT Mr. SIMSARIAN
Uruguay	Mr. CIASULLO
Yugoslavia	Mr. JEVREMOVIĆ

Representatives of specialized agencies:International Labour
Organisation

Sir Guildhaume MYRDDIN-EVANS	Governing
Mr. JOUHAUX)Body of th
Mr. BERGENSTRÖM)Internat-
)ional Labo
)Office

Mr. JENKS
Mr. COXUnited Nations Educational,
Scientific and Cultural
OrganizationMr. SABA
Mr. THOMAS
Mr. ELVIN
Mr. BANNATE

World Health Organization

Mr. BERTRAND

Also present:

Mr. MONSON

Representing the High Commissioner for Refugees

Representatives of non-governmental organizations:

Category A

International Confederation of Free
Trade Unions

Miss SENDER
Mr. PATTEET

World Federation of United Nations
Associations

Mr. ENNALS

Category B and Register

Caritas Internationalis

Mr. PETERKIN

Carnegie Endowment for International
Peace

Mrs. CARTER

Catholic International Union for
Social Service

Miss de ROMER
Mrs. SCHRADER

Consultative Council of Jewish
Organizations

Mr. BENTWICH

Co-ordinating Board of Jewish
Organizations

Mr. MOWSHOWTICH

International Council of Women

Mrs. CARTER

International Federation of
Business and Professional Women

Miss TOMLINSON

International Federation of
University Women

Mrs. ROBB

International League for the Rights
of Man

Mr. BALDWIN

International Union of Catholic
Women's Leagues

Miss de ROMER
Miss ARCHINARD

Liaison Committee of Women's
International Organizations

Mrs. ROBB

Pax Romana

Mr. HEBICHT

Women's International League for
Peace and Freedom

Miss BAER

Secretariat:

Mr. Humphrey

Representing the Secretary-General

Mr. Das

Secretary to the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda):

(b) INCLUSION IN THE COVENANT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

(E/1680, Annex III, E/1952 and Corr.1, E/1927, E/CN.4/353/Add.3, pages 9 - 10, E/CN.4/364 and Corr. 1, 2 & 3 and Add. 1, 2 & 3, E/CN.4/513, E/CN.4/515 and Add. 1 - 17 and Corrigenda thereto, E/CN.4/525, E/CN.4/527, E/CN.4/529, E/CN.4/534 and Add. 1, 2 & 3, E/CN.4/537, E/CN.4/538/Rev.1, E/CN.4/539/Rev.1, E/CN.4/541, E/CN.4/542, E/CN.4/543, E/CN.4/544, E/CN.4/547, E/CN.4/552, E/CN.4/562, E/CN.4/570, E/CN.4/L.17, E/CN.4/AC.14/2 and Add.1 and Corr. 1 and E/CN.4/AC.14/SR.3)

(resumed from the 209th meeting of the Commission and from the 3rd meeting of the Working Group on Economic, Social and Cultural Rights)

The CHAIRMAN announced that the Working Group on Economic, Social and Cultural Rights had proceeded with its work, according to the terms of reference assigned to it by the Commission. There had been a fruitful exchange of views between the delegations and the representatives of the specialized agencies, and the Working Group had asked him to draw attention to the summary records of the three meetings held (E/CN.4/AC.14/SR.1-3). The Working Group had recommended that it should now be dissolved by the Commission and its work continued by the latter at plenary meetings.

Mr. SANTA-CRUZ (Chile) proposed that the recommendations of the Working Group be adopted.

Mr. MOROSOV (Union of Soviet Socialist Republics) also supported the recommendation that the Working Group be dissolved. He had pointed out on several occasions that there was no reason why the discussions on economic, social and cultural rights should take place in closed meetings.

Mr. YU (China) remarked that, as he understood the position, the Working Group had taken no definite decision to recommend that it should be dissolved or that the Commission should resume its discussion of item 3(b) of the agenda at plenary meetings. The Commission had taken a formal decision to set-up the Working Group; it should therefore also decide formally to dissolve it. He had no objection to reversion to plenary meetings, but was anxious that the

due legal procedure should be followed.

The CHAIRMAN explained that his opening remarks should be taken as a report to the Commission at the request of the Working Group.

Speaking as representative of Lebanon, he formally proposed that the Working Group be dissolved, that the Commission take up the discussion from the point where it (the Working Group) had ceased its activities, and that all the representatives of the International Labour Organisation be permitted to speak, each in his appropriate capacity.

The Chairman's proposal was unanimously adopted.

The CHAIRMAN drew attention to the synoptic table of substantive proposals concerning economic, social and cultural rights (E/CN.4/AC.14/2) which had been drawn up by the Secretariat at the request of the Working Group. It would be noted that the first article in that document was of a general nature. However, as would be seen from the summary records of the proceedings of the Working Group, it had there been decided to proceed immediately to the consideration of detailed articles relating to economic, social and cultural rights; however, that process had not been started when the Working Group had adjourned. The second article concerned the right to work. A new proposal submitted by the International Labour Organisation on that subject was to be found in document E/CN.4/AC.14/2/Add.1.

Mrs. ROOSEVELT (United States of America) pointed out that the text of the United States proposal as given in the synoptic table did not include the amendment suggested by Sir Guilhaume Merdlyn-Evans, which she had accepted.

The CHAIRMAN said that an appropriate corrigendum would be issued.

Mrs. MEHTA (India) hoped that, as the representatives of the International Labour Organisation would be present for only a short time, they would be able to see their way to submitting specific proposals, not only on the right to work but also on several other rights.

Sir Guildhaume MYRDDIN-EVANS (Government Representative on the delegation of the Governing Body of the International Labour Office) recalled that he had the previous day made several suggestions on behalf of his Organisation concerning what should be included in the part of the Covenant under discussion. He thought that the Commission had reached the stage when it could start drafting and considering texts for inclusion in the Covenant. If he were to comment in detail on the whole series of rights, he feared that the Commission would again find itself involved in a general discussion. He would prefer to confine his remarks to the particular rights under consideration at any given moment. So far as concerned the right to work, he had made his views clear at the third meeting of the Working Group.

Mrs. RÖSSEL (Sweden) referring to the text submitted by the International Labour Organisation, asked what the opportunity for all who so desired to work would mean at a time when unemployment prevailed; unemployment benefits were a substitute for wages, but not for work. Again, she wondered how the right to work and to choice of profession - rights which, according to the Soviet Union representative, States should ensure - could possibly be combined at all times. Unemployment in some sectors of the national economy of a given country might arise, for example, as a result of the export and import situation; or because of a lack of raw materials.

As Mr. Jouhaux had remarked at the third meeting of the Working Group, vocational guidance and training were very important matters which had to be taken into account before the opportunity to work and to choice of profession could be created.

Mrs. MEHTA (India) explained that she had not meant that the representatives of the International Labour Organisation should make general statements. There were several texts before the Commission and she would welcome observations on them from the representatives of that Organisation, for the reason she had already given. She desired to know what the International Labour Organisation had to say on the rights other than the right to work.

Mr. JOUHAUX (Workers' Representative on the delegation of the Governing Body of the International Labour Office) appealed to members to view the matter logically: the representatives of the International Labour Organisation were being asked to take part in the discussion of a particular item, and to state their views on all the others point within the framework of that discussion. That was hardly a satisfactory way of proceeding.

Mr. DUPONT-WILLEMEN (Guatemala) shared the view of the Indian representative. The representatives of the International Labour Organisation had made very interesting statements, and the members of the Commission now had before them a table setting forth the six proposals which had been submitted in connexion with the right to work and the free choice of an occupation. He would like to see the representatives of the International Labour Organisation submit detailed criticisms of each proposal.

His Government had instructed him to vote for the most liberal and democratic of the proposals. For that reason he was in favour of the International Labour Organisation's text.

Mr. SANTA CRUZ (Chile) thought it might be left to the representatives of the International Labour Organisation to draw up the article relating to the right to work and to the free choice of an occupation. The formula outlined at the third meeting of the Working Group by Mr. Jouhaux struck him as worthy of the closest consideration. He hoped it had been carefully noted, and that its text would be circulated to the Commission. He personally was in favour of adopting it.

Referring to what the Guatemalan representative had said, he felt that the members of the Commission should not press the representatives of the International Labour Organisation unduly. There must be no suggestion of stampeding them into collaborating with the Commission. It was for members themselves to criticize the proposals before the Commission. The representatives of the International Labour Organisation had already given evidence of their desire to co-operate by submitting a text on their own initiative.

Mr. JOULIAUX (Workers' Representative on the delegation of the Governing Body of the International Labour Office) did not think the representatives of his Organisation were present to criticize proposals submitted by members of the Commission on Human Rights, but rather to suggest in what form and on what lines replies should be made to certain questions.

In their statements, the representatives of the International Labour Organisation had not dwelt on the consequences of the implementation of the right to work, because they considered that that was a matter which should be dealt with by conventions or recommendations prepared by the Organisation.

Mr. DUONT-WILLEMEN (Guatemala) explained that by "criticism" he had meant the constructive criticism envisaged in paragraphs 3 and 4 of the resolution on the future work of the Commission on Human Rights, adopted by the Economic and Social Council on 23 February 1951. The Commission had already considered what interpretation should be placed on those paragraphs, and had decided that they should be understood to involve the positive participation of representatives of the specialized agencies, on whom they conferred the right, for example, to put forward criticisms in connexion with proposals submitted by members of the Commission. Hence the representatives of the specialised agencies need feel no hesitation in expressing their views frankly and without reservation.

Mr. MOROSOV (Union of Soviet Socialist Republics) reserved the right to speak on the article relating to the right to work at greater length once the procedural decision had been taken regarding how the representatives of the International Labour Organization should participate in the deliberations. He found the present discussion on the matter somewhat odd. The participation of specialized agencies was clearly regulated by rule 73 of the rules of procedure, which also laid down the procedure for voting on proposals submitted by specialized agencies. There was no need to add to the task of the representatives of the International Labour Organisation by asking them to criticize the proposals tabled by delegations, which were not of the same nature as those presented by the specialized agencies themselves.

He would later himself criticize those of the proposals submitted which he considered unsatisfactory. He invited other representatives to follow his example. That would be the most fruitful way of proceeding.

The CHAIRMAN replied that the rules of procedure did not limit the nature of the participation of specialized agencies. It was only the modesty of the representatives of those agencies which caused them to refrain from criticizing the proposals before the Commission. They were entitled to offer such criticism, and he would be prepared to listen to their observations with great interest.

Under the rules of procedure, proposals submitted by specialized agencies could not be voted on unless sponsored by a member of the Commission. The Lebanese delegation would be willing to sponsor any such proposals. It was important to secure the co-operation of the specialized agencies and for the Commission to express itself on their suggestions.

Mr. WHITLAM (Australia), after stating that he would welcome whatever criticisms or suggestions were made individually or collectively by the specialized agencies, pointed out that discussion of the right to work would take a considerable time, so that, if the Commission were to have the maximum benefit from the participation of representatives of the International Labour Organisation, it would be necessary to hear their criticisms or suggestions at the present meeting or, at latest, the following day.

Mr. SØRENSEN (Denmark) proposed the following draft Article, in the hope that it would command the widest area of agreement:

"The right to work being the basis of society, the States Parties hereto undertake to recognize as a fundamental human right the opportunity to work for all who so desire".

He wondered whether that text, which he submitted not as an additional draft but as an attempt to crystalize the consensus of opinion, reflected the basic ideas of the representatives of the International Labour Organisation.

Sir Guildhaume MYRDDIN-EVANS (Government Representative on the delegation of the Governing Body of the International Labour Office) explained that the suggestion he had put forward at the third meeting of the Working Group had been submitted with the concurrence of his colleagues, although Mr. Jouhaux had remarked that he would have liked to include certain other ideas to render it more forceful. Since then he (Sir Guildhaume) had consulted his colleagues, and the result was the new International Labour Organisation draft (E/CN.4/AC.14/2/Add.1), which should be considered as replacing the shorter text he had suggested in the Working Group.

Mr. SORENSEN (Denmark) suggested that the Commission should vote on the text submitted by the International Labour Organisation, and withdrew his own proposal.

Mr. SANTA CRUZ (Chile) thought that the two texts just submitted corresponded much more closely to the Commission's aims, since they both began by recognizing that work was the basis of human society, and thereafter proclaimed the right to work.

The text adopted by the Commission would have to be compatible with the undertaking that signatory States would assume in order to ensure the right to work. That undertaking was specified in several proposals, for example, in the Soviet Union proposal (which had the disadvantage of over-emphasizing the duties of the State), in the Yugoslav proposal, which was incomplete, and in the Egyptian proposal, which pledged the State to safeguard the right to work only insofar as its own nationals, and not all the inhabitants of its territory were concerned.

He therefore proposed that the formula suggested by the International Labour Organisation be supplemented by the addition of the following clause taken from the text (E/CN.4/NGO/28) proposed by the World Federation of Trade Unions:

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"The State shall be required to adopt measures, particularly of a legislative nature, to guarantee concretely the enjoyment of these rights and, in particular, to bring about and maintain full productive employment."

He had intentionally omitted the last four words of that text, namely, "of a peace-time character," since a country might be the victim of aggression and find itself obliged to develop an armaments industry in self-defence.

The value of the proposal submitted by the World Federation of Trade Unions was that it would oblige the signatory States to adopt measures to safeguard the exercise of the right to work. It also re-affirmed the obligation of signatory States to ensure full employment, which was perhaps the most practical and effective method of ensuring observance of the right to work.

With the amendment he had suggested, and one or two drafting improvements, he would accept the text submitted by the representatives of the International Labour Organisation.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that the Commission, in drafting the very important and basic provisions of the articles on economic, social and cultural rights, was continuing to be unrealistic, and was closing its eyes to what was going on in the world. The various texts submitted, including the formula finally introduced by the representative of the International Labour Organisation after pressure had been exerted on him, said less than did Article 23 of the Universal Declaration.

None of these proposals required States to guarantee the right to work and the right to a free choice of work. The various suggestions submitted in competition with the Soviet Union proposal contained no provisions emphatic enough to satisfy those States which wished to defend the sacred right of everyone to work. He wondered whether the latest proposal implied the adoption by States Parties to the Covenant of any real measures for alleviating the plight of the scores of millions of people throughout the world who had been deprived of the right to work, and who were therefore facing starvation or dying of hunger, or enduring a miserable existence in the ranks of the unemployed

with no possibility whatever of applying their energies to some useful task. There were States which tolerated such deplorable conditions, and yet in none of the texts under consideration was a true guarantee of a man's right to work and to choose his profession to be found; there was no guarantee that the States signatories of the Covenant would be committed to improving the wretched lot of those unhappy millions.

He appealed to members to take to heart the arguments submitted by his delegation to demonstrate the need for a far more energetic formula. To substantiate those arguments he would quote a few facts which he had collected at random.

In his message to the United States Congress of 6 April, 1950, recommending the expansion of the unemployment insurance scheme, President Truman had admitted that the situation was becoming serious. He had said that during the first quarter of 1950 the number of totally unemployed persons had averaged nearly 4,500,000, as compared with 3,000,000 in the first quarter of 1949, and 2,500,000 in the first quarter of 1948. Moreover, according to President Truman's message, the time required to find a man a job was increasing. One million men, that was, almost a quarter of the totally unemployed, had been out of work for fifteen weeks or longer. In the previous year only 420,000 had been out of work for so long, while in 1948 the corresponding figure had been only 330,000.

Many of the unemployed were not even in receipt of the inadequate unemployment relief provided in the United States of America. Thus, for example, the Labour and Industry Department of the State of New York had announced on 3 May 1950, that in that one State alone 200,000 unemployed had lost their unemployment relief. Two thirds of those had been over 45. Mr. Johnston, Secretary of the National Cinematograph Association, had admitted on 29 April, 1950, that such people had been "thrown overboard", and that it was a real American tragedy when an unemployed man of over 45 was too young for a pension and too old to get work.

Hundreds of thousands of agricultural workers and their families were in a particularly wretched plight in the United States of America. During the first six months of 1950, one of the correspondents of "Collier's Magazine," a certain Mr. Bell, had reported that at least 200,000 families of unemployed agricultural workers were suffering from hunger, disease and want in California.

According to Bell, 28 children had died of hunger in two counties of California during a single month in the autumn of 1949. It had been officially announced that in King County in the State of California a large number of children had been removed from an agricultural workers' camp to hospital, where they had died. The autopsy had established that the cause of death was starvation. Those facts had been substantially confirmed by a statement made about the same time by Mr. Mitcher, Secretary of the Agricultural Workers' Union, to the effect that at least 100,000 people were starving in the southern cotton-growing states.

The unemployed had been driven to the most extreme measures. For instance, the following advertisement had appeared in the "New York Journal - American": "For Sale, 4 children; apply here". The advertisement had been inserted by Ray and Lucy Shalifou, both of whom had been unemployed. They had decided that it would be better to part with their children than to see them die of hunger.

The English "Daily Mirror" had also reported sales of children in that country. There, according to a report in that paper, there were regular market quotations: £80 for a boy and £150 for a girl. An employee of one of the London hospitals had related in the columns of that paper how four or five people came to the hospital every day, just as though it were a greengrocery, and enquired: "Have you any children".

The indigenous inhabitants of colonies and semi-colonial territories existed in particularly wretched circumstances. A United Nations report on the economic situation in Africa had stated that a substantial part of the population faced hunger, or had to subsist on a semi-starvation diet. The African peoples fared worse than those of any other continent.

He had cited the foregoing facts to demonstrate the cogency of the Soviet Union proposal, which contained provisions obliging States to ensure conditions under which the threat of death from hunger and inanition would be removed. His proposal had not been evolved in the sphere of academic discussion; it was designed to alleviate the plight of scores of millions of human beings, and was based on a desire to include in the Covenant definite provisions to help eliminate what was a human tragedy.

If any member of the Commission was still in any doubt about the Soviet Union delegation's conception of the right to work he was very ready to adduce, either privately or in the Commission, further evidence of the unsatisfactory employment position in a number of countries. That was a situation which demanded the application of specific measures, although not of the kind recommended by Major-General Fuller who, in a recent article, had advocated an expanded programme as a means of eliminating unemployment.

The Soviet Union proposal did no more than enunciate the basic obligations of governments to ensure the right to work. Those obligations would be appropriate whatever the economic or social structure of the country concerned. He could not, in all conscience, see what objection could be raised to the putting into effect of the principle underlying his proposal. If anyone did not acknowledge the right to work as a basic human right he should say so; or, if anyone found it inconvenient to take practical measures to that end at the present time, he should explain his reasons therefor. The obligations to be assumed by governments as laid down in the Soviet Union proposal represented a minimum. His delegation had not sought to impose any particular method of implementation, but had left it to each country to select the one most appropriate to its national requirements. He would in that connexion reply in the negative to the question put by the Chairman, namely, whether the text suggested by the Soviet Union on the right to work was based on the conception of the State as the employer. Perusal of the text would clearly show that that was not so. In the Soviet Union the right to work was guaranteed by the socialist structure of society, by the continuous growth of the national economy and by the elimination of unemployment. But his delegation had not put that forward as a programme for all other governments to adopt.

Some members had asked what he meant by the right to "choice of profession". There again the text was self-explanatory. What was meant was that everyone should be able to choose the kind of work for which he was best suited, and for which he had the strongest inclination. No one had given substantial reasons why the Soviet Union proposal should be rejected, and its opponents had fallen back on the evasion of the decisive issue, namely, that governments must

undertake certain obligations in order to guarantee the right to work, without which men could not live.

He considered that the suggestion put forward by Sir Guildhaume Myrddin-Evans (E/CN.4/AC.14/2/Add.1) introduced certain elements which had nothing whatever to do with the right to work, and merely served to obscure the issue; for example, the words "everyone who so desires". Work was a right, not an obligation; therefore the introduction of that element was totally unnecessary. On the other hand, the text failed to say certain things which needed to be said. It was to be feared that if the provision on the right to work was drafted in such terms it would remain void of content since it would be nothing more than a declaration of something that was already generally known and accepted. Neither the Australian, the Danish nor the United States proposals met the need for governments to assume certain responsibilities essential for the improvement of working class conditions. In the Soviet Union, there had been no unemployment since 1930. That was not the case in any other country; hence the question of providing work for all remained of pressing importance.

Miss BOWIE (United Kingdom) said that she was in favour of Sir Guildhaume Myrddin-Evans' text, because it expressed the right to work as a right intrinsic to human beings. Indeed, it was expressed in that text in the same terms as other rights in the draft Covenant. As consistently emphasized by her delegation, the difficulty was that economic, social and cultural rights could not be treated on the same basis as the other rights, since the former tended to be regarded in terms of duties incumbent on States. Indeed, many partisans of the inclusion of such rights in the draft Covenant, when talking of the right to work, were in fact talking of something else, namely, the duty of the State to provide employment. Once that construction was put on the right to work, it became impossible to include a provision concerning it in the draft Covenant as it stood in its present form. If the Commission were to proceed from such a starting point, it might find itself involving governments in commitments of a highly technical nature. The Economic and Social Council, it would be recalled, had set up the Economic and Employment Commission to advise

the Council on measures for promoting full employment throughout the world. She did not consider that the Commission on Human Rights had either the necessary background or information to go into issues of that kind, nor did it command a full understanding of what was at stake. It was for that reason that she could not vote in favour of a bald proclamation of the right to work.

She appealed to the Soviet Union representative to reply to the question she had raised at the previous meeting, namely, how would it be possible to ensure that everyone had a free choice of profession? She had been prompted to put that question by the criticism directed against the United States proposal, to the effect that it would be impossible to ascertain whether States were in fact promoting certain conditions. She wondered how the proposition underlying the Soviet Union text could be put to the same sort of test.

With reference to the Soviet Union representative's allegation concerning the sale of children in the United Kingdom, it was indeed regrettable when a representative's sources proved faulty. As everyone knew, it was against the law to sell children in the United Kingdom, and in fact they never were sold there. Furthermore, the laws of adoption were extremely strict, and other legislation protected the welfare of children in every respect. She could only urge the Soviet Union representative to verify his facts. He might perhaps be labouring under a misunderstanding due to linguistic difficulties. Better still, she would invite him to visit her country in order to see for himself that there could be no possible truth in the statements he had quoted.

Sir Guildhaume MYRDDIN-EVANS (Government Representative on the delegation of the Governing Body of the International Labour Office), referring to the point mentioned by the Chilean and Soviet Union representatives, said that the International Labour Organisation had always envisaged that the Covenant would lay obligations on governments to ensure that the rights proclaimed in it were enjoyed by their citizens. He had directed his attention solely to defining each right, and it was for the Commission to decide whether obligations were to be laid on governments in a single, over-all clause, or by appending a separate clause to the definition of each right. That matter might perhaps be left to the end of the discussion.

The CHAIRMAN asked whether the words "who so desires" in Sir Guildhaume's text should not be placed after the word "opportunity", since the opportunity must be guaranteed as a pre-requisite to the desire to gain a living by work.

Sir Guildhaume MYRDDIN-EVANS (Government Representative on the delegation of the Governing Body of the International Labour Office) said that the Chairman had interpreted his intention quite correctly. The ambiguity had not existed in the earlier text he had put forward at the third meeting of the Working Group. He would be quite prepared to amend his text in the manner suggested by the Chairman.

Mr. CASSIN (France) submitted a new proposal concerning the right to work and to the free choice of occupation, the text of which read (E/CN.4/571):

"Work being the basis of society, the States Parties to the Covenant recognize the right to work, i.e. the fundamental right of everyone to the opportunity to gain his living by work of his own choice. They undertake to adopt the measures necessary for the exercise of that right."

The first sentence of his new proposal established the principle, that was, recognition of the right to work; it did not dissociate the right to work from the free choice of work and aptitude for it. The second sentence had been intentionally made separate, to obviate the necessity of re-drafting the whole article should the Commission wish to adopt a uniform model for the undertaking, applicable to all rights.

He wished to draw attention to his use of the expression "adopt the measures necessary". He thought that the verb "promote" was too weak, but that the verb "guarantee" implied an excessively one-sided undertaking which isolated the State from the rest of mankind, whereas in fact the State would pledge itself both as a distinct entity and as a member of the international community. The expression "adopt the measures necessary ..." was more general, and did not prejudge any decision that the Commission might later adopt on measures of implementation.

Mr. SIMSARIAN (United States of America) said that the Soviet Union representative's last intervention was unfortunate. It was regrettable that he should have sought to lower the tone of the debate. Much of what he had said had very little meaning. He had cited inaccurate facts about the United States of America, which everyone knew to be inaccurate. It was to be hoped that in the future a less provocative attitude would be adopted, that no further time would be wasted, and that the Commission would be allowed to resume its important technical task in a dignified atmosphere.

Expressing his appreciation of the constructive contribution which had been made by the International Labour Organisation to reaching agreement, he stated that his delegation would be prepared to accept the wording suggested by Sir Guildhaume Myrddin-Evans on behalf of the International Labour Organisation, and to withdraw its own proposal.

The reason why his delegation felt some misgivings about the expression "the right to work" was the existence of slave labour and the totalitarian control of workers in certain countries, the representatives of which claimed to have brought about the realisation of that right. His Government recognised the value of work and respected the efforts made by the Commission to define what was meant by the right to work, and felt that every effort should continue to be made to avoid having the Covenant used for propaganda purposes. The Covenant should embody the expression of certain firmly held concepts, full weight being given to the appropriate meaning of the word "right" as used in that part of the Covenant. His delegation was prepared to accept Sir Guildhaume's wording, because it was now able to understand the sense in which the word "right" was being used in that text.

Miss SENDER (International Confederation of Free Trade Unions), speaking at the invitation of the CHAIRMAN, expressed her support for Sir Guildhaume Myrddin-Evans' wording as amended by the Chairman. The right to work belonged to the individual, both in a socialist society and in one based on private ownership of the means of production, but there was a danger that it might assume a coercive aspect in a totalitarian country. Comprehensive state

economic planning might entail the direction of labour to selected industries. The question was, how to avoid any such interpretation being placed on a provision relating to the right to work. The provisions of article 5 of the draft Covenant were not an adequate safeguard, since they dealt specifically with forced labour. It was thus necessary to define the voluntary character of work, so as to make sure that governments could not abuse the provision concerning the right to work. It might indeed be specified, as Mr. Jouhaux had suggested, that work should be performed only under conditions that had been negotiated by free trade unions. Certain strictly limited exceptions could be allowed, but only in very occasional circumstances of extreme gravity, when the direction of labour became unavoidable.

Sir Guildhaume's text had been criticized on the ground that it contained no specific obligations to be assumed by governments. The United Nations as a whole had been attacked as lacking in realism. It was to be regretted that the author of those charges had not been present at the eleventh session of the Economic and Social Council, when extremely full discussions had been held on the question of full employment, which had had practical and very fruitful results.

No useful purpose whatever would be served by drafting in relation to certain rights provisions which, though unexceptionable in form, would have no practical meaning and would represent mere propaganda slogans. The most practical way of giving effect to the right to work would be to continue the consideration and implementation of measures to secure full employment.

AZMI Bey (Egypt) had two comments to make on the definition proposed by the International Labour Organisation. First, he was opposed to the use of the word "desires", which he considered superfluous. The purpose of a covenant on human rights was to specify certain rights to which human beings were entitled. Hence it was sufficient to define those rights and to take the necessary measures to safeguard them. If any individual wished to exercise one of those rights, he would automatically be expressing the desire to do so. Hence there was no point in mentioning the fact in the definition of the right.

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With regard to the second point, the definition directly associated the idea of the right to work with the necessity for gaining a living. He himself urged that the idea of work as such, work as a physical activity, should be the sole consideration. The representatives of the International Labour Organisation started out by stating that work was the fundamental basis of all human endeavour - a very noble concept - only to end their definition on a purely material and practical note. That he found somewhat puzzling.

He therefore proposed the following text: "Work being the fundamental basis of human endeavour, everyone has the right to the opportunity of carrying on an occupation without hindrance". The advantage of that version would be that it would not introduce the idea of material gain.

In conclusion, he entirely agreed with the International Labour Organisation representatives that the Covenant should include provisions relating to respect for the right to work. It was quite clear that, failing some such provision, the definition of the right to work would be a mere statement of principles with no practical effect. Hence he was in favour of adopting a formula implying obligations, on the lines of those suggested by the representatives of Chile and France.

Mr. JEVREMOVIĆ (Yugoslavia) said that the right to work was of vital importance; and the discussion had thrown into relief the difficulties involved in its realization. Where, and how far, it had in fact been ensured was not a point on which the Commission should waste its time.

He was prepared to accept the text suggested by Sir Guildhaume Myrddin-Evans, but, like the Egyptian representative, he doubted whether there was any need to retain the words "who so desires". They indeed appeared to be superfluous, since if a man had no desire to work he would not exercise his right to do so. Some representatives were in favour of also inserting the right to the free choice of profession. He did not believe that governments which seriously intended to carry out their obligations under the Covenant would be able to accept such a provision. Unqualified freedom of choice could not be guaranteed, though the desirability of taking people's desires and aptitudes into account might be mentioned.

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It was important at the present stage to prevent the birth of confusion between the individual's right to work and governments' obligations in that respect. He believed the second issue might be discussed at a later stage, when it would have to be decided whether the responsibility of States was to be defined in a single over-all provision, or whether a separate clause was to be drawn up relating to each right. The question was: were governments to guarantee the right to work, or to undertake to carry out the necessary measures to ensure that its nationals would enjoy that right?

Mr. SANTA CRUZ (Chile) thought that, contrary to the opinion expressed by the Yugoslav representative, the Commission, in discussing the definition of the right to work, was in fact examining the problem of the obligations resting on States. Actually, several members of the Commission had already put forward formulas involving obligations, and very few had taken a stand on the other side.

He drew attention to the radical differences between the rights laid down in articles 1 - 18 of the draft Covenant and economic and social rights. For the first group the desire was to safeguard the exercise of civil and political rights against interference by the State or by third parties. But, quite clearly, positive intervention by the State must be prescribed for if the economic and social rights were to have any practical significance.

Thus, in the case of the right to work, it would in many countries be the State which would have to provide that work. With regard to the right to social security, again, the State would have to pass the necessary laws. There was no alternative. With regard to the right to strike, its very existence was dependent on the undertaking given by the State. Hence, economic and social rights would have no meaning unless the obligations on signatory States were clearly defined.

Another question to be settled was whether there should be a clause embodying a general undertaking, as recommended by the representatives of Yugoslavia and of

the International Labour Organisation, or a series of separate undertakings for each of the rights defined in the Covenant. He personally thought that the rôle of the State should be defined in each article, since it would differ according to the right to be safeguarded and implemented, and the Commission might therefore feel inclined to adopt different formulas for different rights. He was glad to see that the French representative had expressed that concept in the formula he had proposed for the right to work. But it might be useful to add to the French proposal a clause defining the way in which the State was to carry out its obligation.

It might be a good idea to borrow the clause suggested by the World Federation of Trade Unions, so that, by the mention of full employment, one of the basic articles of the Covenant would be linked with the provisions of the Charter and with the many resolutions on the subject of full employment adopted by the General Assembly and the Economic and Social Council.

The French representative had felt it preferable not to refer more specifically to the measures to be taken to safeguard the exercise of the right to work. But he (Mr. Santa Cruz) personally was reluctant to abandon the idea that international co-operation was essential if full employment was to become a reality, and, in a more general way, if all the rights envisaged in the Covenant were to be exercised. In view of the inter-dependence of all the countries of the world, none of the economic and social rights could be effectively applied without active international co-operation. It might perhaps be possible to make use of a formula resembling that of Article 28 of the Universal Declaration: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized".

The CHAIRMAN agreed with the Chilean representative that explicit mention should be made of the necessity for joint action, to which members were pledged under Article 56 of the Charter,

Speaking as representative of the Lebanon, and addressing himself to the representatives of more advanced countries, he said that the economically less advanced countries would find it difficult to adhere to the draft Covenant unless they knew what measures of implementation were envisaged and how much international assistance they could rely on to help them to give effect to that implementation.

Mr. JOUHAUX (Workers' Representative on the delegation of the Governing Body of the International Labour Office) said that the representatives of the International Labour Organisation had submitted a definition of a right which they considered to be essential and fundamental. If they had confined themselves to a definition pure and simple, that was because they were representatives of an international organisation which had already had experience of all the problems involved in the exercise of the right to work, as for example, entry to professions, apprenticeship, unemployment benefits, social security, full employment policies and so on. All those problems had already formed the subject of international conventions under which acceding governments pledged themselves and assumed responsibilities. The representatives of the International Labour Organisation had confined themselves to enunciating the principle of the right to work because they knew that the corresponding undertakings had already been entered into, and because it would be sufficient if the Covenant, by defining the right to work, gave greater breadth and universality to the conventions and recommendations drawn up by the International Labour Office.

For fifteen years the Office had been studying all the problems connected with the exercise of the right to work, and had drafted texts outlining methods of dealing with them.

The CHAIRMAN, replying to Mr. Jouhaux, said that it was precisely for the reason the latter had just mentioned that the participation of representatives from the International Labour Organisation was so valuable. The Commission would be lacking in realism if it did not seek their help and welcome constructive

suggestions from them. Nevertheless; it was acting under the instructions of the General Assembly from which it had received specific terms of reference, and it was obliged to make every effort to work out provisions for inclusion in the draft Covenant on the lines indicated by the Assembly. If the International Labour Organisation had wished to undertake certain commitments in that field, it should have urged its point of view at the last session of the General Assembly. It would be recalled that there had been a preponderant vote in the General Assembly in favour of asking the Commission to draft the provisions on economic, social and cultural rights.

Mrs. MEHTA (India) suggested that the word "work", when used alone, was somewhat abstract. The Commission was thinking in definite terms of industrial work; she would therefore suggest the insertion of the words "for one's living" after the word "work" in the text submitted by Sir Guildhaume Myrddin-Evans. She also suggested the addition of the words "of his choice" at the end of the sentence, which would then read "to gain his living by work of his own choice".

Mr. JEVREMOVIĆ (Yugoslavia) said, in reply to the Chilean representative, that he had never shown any disinclination to discuss the obligations of governments in ensuring economic, social and cultural rights. He had merely suggested that the matter might be left until a later stage in the discussion.

Mr. SANTA CRUZ (Chile) suggested the addition of the following words at the end of the French proposal: "... and especially those with the purpose of creating or maintaining full productive employment." He thought it important that the term "full employment" should be qualified by the adjective "productive": full employment existed in the majority of countries, but it did not always correspond to the requirements of individuals or of the community. As a rule it was an artificial form of full employment, which failed to give workers sufficient remuneration to satisfy their basic needs, and it was for that reason that he thought it necessary for both concepts, full employment and productivity, to be expressed.

Mr. YU (China) said it would be interesting to know precisely what Sir Guildhaume Myrddin-Evans had in mind by the expression "to gain his living by work". As the Egyptian representative had pointed out, work was not necessarily done in order to gain a livelihood, but sometimes for pleasure, to further science or to serve one's country. Did Sir Guildhaume think that the only purpose of work was to earn one's daily bread?

With regard to the Chilean representative's points concerning implementation, he said that he had understood the Commission to have deferred consideration of that matter until later.

There was some merit in the Danish representative's suggestion which, in spirit, was extremely close to Sir Guildhaume's text. Nevertheless, he would like to put forward his own wording for the consideration of the Commission. It was: "The right to work being the basis of all human endeavour, the States Parties hereto recognize that any person who is able and so desires has the right to the opportunity to work". The words "is able" introduced a new element in recognizing that, though each man had the right to work, not all were capable of doing so. Some representatives had suggested that the clause "who so desires" was superfluous; he could not entirely share that view as he considered the words might be useful in clarifying the meaning and obviating any danger of the clause being used by governments to justify the introduction of forced labour.

Mr. SANTA CRUZ (Chile) thought that agreement had been reached in the Working Group on a proposal to draft an article containing a general undertaking relating to all rights. He did not think that the Working Group had taken any decision regarding the manner in which the obligations of signatory States would be defined.

The CHAIRMAN confirmed that the Chilean representative was right. No decision had been taken by the Working Group as to the method to be followed in drafting the obligations to be assumed by governments in respect of economic, social and cultural rights.

Mr. MOROSOV (Union of Soviet Socialist Republics) expressed his regret that the United States alternate representative, instead of attempting to reply to the facts he (Mr. Morosov) had mentioned regarding the situation in the United States of America, should have attempted to instruct the Soviet Union representative as to how the discussions should be conducted, and should have expressed certain personal views concerning the nature of the Soviet Union representative's remarks. He (Mr. Morosov) had quoted from a statement made by Mr. Truman. He could only regret that the United States alternate representative should have described such information as meaningless. Was the latter prepared to deny the validity of Mr. Truman's unemployment figures? He (Mr. Morosov) had not mentioned those facts as a reproach to the United States of America.

He would urge representatives to select their expressions with care and to exercise tolerance; facts deserved serious consideration. He would always be prepared to listen patiently, if they could be contested, though all those he had mentioned, especially Mr. Truman's statement, had been taken from official United States sources; but he could not accept the allegation that he had been talking nonsense.

With regard to his statements concerning the sale of children in the United Kingdom, he assured the United Kingdom representative that she could verify them from newspaper files. Perhaps she might care to start a libel case against the responsible editors, although he felt doubtful whether that would be done.

Mr. CASSIN (France), replying to the various comments on his proposal, said there had been some question whether "work" was best defined as the basis of society or as the basis of human activity, and that some surprise had been expressed at the omission of the adjective "fundamental" before the word "basis". In his view, the expression "fundamental basis" was tautological, since a basis was a foundation. Moreover, the adjective "fundamental" appeared a little later in the same sentence. Furthermore, he preferred "society" to "human endeavour". The vital importance of the human being's physiological, mental,

physical and intellectual activities could not be disregarded. One of the representatives of the International Labour Organisation had rightly observed that work was the prime mover of modern society. Despite technical progress human activity would clearly continue to involve an irreducible minimum of work, which could never be entirely eliminated. Therefore, in his view, the term "society" was preferable to the term "human endeavour".

So far as concerned the definition of the right to work contained in the French proposal, namely, the words, "recognize the right to work, i.e. the fundamental right of everyone to the opportunity to gain his living by work of his own choice", it might perhaps have been enough to say "... recognize the fundamental right"; but he considered it unthinkable that the right to work should not be called by its name in a Covenant on Human Rights. Besides, clarity was always essential.

He fully agreed with the interpretation of the right to work given by the representative of the International Labour Organisation. He also agreed with the Egyptian representative that the beneficiary of a right was not obliged to exercise it; nevertheless he was entitled to do so, and there was therefore no point in using the term "desire".

In the French version, he preferred the term "toute personne" to "chacun", the former being that used in the Universal Declaration.

With regard to the phrase "the opportunity to gain his living" he was not unaware of the spiritual significance of the Egyptian and Chinese representatives' comments. But he would point out that he had begun with a completely objective definition of the right to work. A study of practical living conditions in any society clearly showed that the individual who worked must be in a position to command a living wage for his work. There was no humiliation in that fact, since it was a law affecting all members of the human race: all must earn their living, and do so albeit with varying success.

He regarded the phrase "by work of his own choice" as the happiest, since it had the effect of removing any idea of compulsion latent in the term "right to work".

Concluding the examination of the first sentence of his proposal, he pointed out that, although his definition might be improved, every word used in it had been carefully weighed.

The second sentence of the French proposal raised a question of principle, namely, whether a list of measures of implementation should follow each article of the Covenant. He did not think so, and he would in due course give his support to a clause for an "over-all" undertaking. The general character of such a clause would, of course, apply to obligations, not to rights. The Commission would find the three basic elements of such a clause in the Australian proposal, namely: States parties would bind themselves to promote the conditions essential to the exercise of the rights proclaimed, to adopt the necessary legislative measures, and to undertake to co-operate with other States.

Lastly, the Chilean representative had mentioned the question of full employment. That was a special problem, and it should be decided whether the Covenant should include an express reference to specific or general plans for realising full employment. The idea of mentioning full employment had been criticised on the ground that full employment was a present-day problem with political implications, which might one day lose its topicality. He himself saw no objection to mentioning the problem of full employment. If a member of the Commission could propose a formula susceptible of insertion at the beginning of the second sentence of the French proposal, and which would not prejudice any measures of implementation subsequently adopted by the Commission, that formula would have his support.

The CHAIRMAN, speaking as representative of Lebanon, said that the words "Work being the basis of society" in the French text was a far-reaching metaphysical judgement concerning the essence of society, which he, for his part, would not be prepared to accept.

Mr. CASSIN (France) was prepared to add the word "at", so that the phrase would read "Work being at the basis of society". That addition would indeed improve the wording of his proposal.

AZMI Bey (Egypt) said that in criticizing the reference in the definition of the right to work to the opportunity to gain a living he had not meant that work should not be remunerated. On the contrary, he thought that it should be specified that all work should be remunerated; but the question of remuneration should be dealt with in the article relating to wages. He was against the mention of any such materialist consideration as earning one's living at a time when the Commission was endeavouring to define one of the noblest of human rights.

In addition, he had not intended, in opposing the insertion of the words "to gain his living" to suggest the possibility of compulsion. He wished work to be free and remunerated; he would therefore withdraw the amendment which he had submitted to the International Labour Organisation's proposal, and would propose an amendment to the end of the first sentence of the French proposal, namely, to make it read "to the opportunity for the free enjoyment of work of his own choice".

Sir Guildhaume MYRDDIN-EVANS (Government Representative on the delegation of the Governing Body of the International Labour Office) said that he would prefer the expression "human endeavour" to "society" in the French representative's text, since the former had a direct bearing on work. Perhaps the exact shade of meaning of the English text had escaped the French representative in translation. He did not think the expression "right to work" had any meaning unless it was qualified, and in that respect the French text followed more or less exactly the interpretation given to that expression in his own suggestion, but he would prefer the omission of the words "c'est-à-dire", which had been translated "i.e." in the English version.

He regretted the omission from the French text of the expression "who so desires", which was a great loss. The right to work did not involve compulsion, but in some contexts it might bear that connotation. It was for that reason that he had inserted such a phrase, which he considered essential, in his own text. Unlike the author of the French text, he did not think that the same

purpose would be achieved by the words "his own choice". Furthermore, those words were ambiguous. Did they mean that governments undertook to find the employment of everyone's choosing? To take an extreme example, supposing everyone wished to be prison-warders, would half the population of the country have to be cast into prison in order to satisfy the ambitions of the other half? If the intention of those words was that each should have the right of entry to any trade, profession or vocation, suitable words could no doubt be found to express that idea.

He would assure representatives that he had never presumed to suggest that his Organisation was in favour of an "over-all" clause on government obligations, to cover all economic and social rights. It was not for him to put forward such a view, although personally he considered that it would be the best solution. All he had suggested was that the question might be held over until the end of the discussion. If it were desired to insert some provision with regard to government obligations in the article enunciating the right to work, he would prefer some wording similar to that used in the United States text (E/CN.4/AC.14/2/Corr.1), to the effect that governments should take measures to secure the enjoyment of certain rights by all their nationals.

Mrs. MEHTA (India) also felt concern about the use of the abstract term "work". It was for that reason that she had put forward her amendment to Sir Guildhaume Myrddin-Evans' suggestion. The Commission was in that connexion considering an economic right, and the Egyptian representative had perhaps approached the matter from too exalted a standpoint.

In the light of subsequent remarks she was, however, prepared to withdraw her proposal that the words "of his choice" be added at the end of Sir Guildhaume Myrddin-Evans' text.

The CHAIRMAN said that the Commission was greatly indebted to the representatives of the Governing Board of the International Labour Office for

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attending its meetings and assisting it in the accomplishment of its task. They were men with heavy responsibilities and had given most generously of their time. Nevertheless, he understood that they would be unable to remain in Geneva after the following day. He would therefore suggest that in order to make the fullest use of their counsel, the Commission should hold a meeting in the afternoon of Saturday, 28 April.

The Chairman's suggestion was carried by 11 votes to none with 3 abstentions.

Sir Guildhume MYRDDIN-EVANS (Government Representative on the delegation of the Governing Body of the International Labour Office), explaining that he and his colleagues welcomed the opportunity of participating in the Commission's work, expressed their willingness to remain as long as it was possible for them to do so.

The Meeting rose at 6.30 p.m.