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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-EIGHTH MEETING

Held at Headquarters, New York,  
on Friday, 25 April 1952, at 10.30 a.m.

CONTENTS:

Draft international covenants on human rights and measures of implementation: Part III of the draft covenant drawn up by the Commission at its seventh session (E/1952, E/CN.4/654, E/CN.4/654/Add.1, E/CN.4/654/Add.2, E/CN.4/654/Add.3, E/CN.4/654/Add.4, E/CN.4/654/Add.5, E/CN.4/654/Add.6, E/CN.4/655, E/CN.4/655/Add.1, E/CN.4/655/Add.2, E/CN.4/655/Add.3, E/CN.4/655/Add.4, E/CN.4/650, E/CN.4/660, E/CN.4/661, E/CN.4/NOO.35, E/CN.4/L.45, E/CN.4/L.46, E/CN.4/L.47)

<u>Chairman:</u>	Mr. NAKK	(Lebanon)
<u>Representative:</u>	Mr. WHITLAM	(Australia)
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG FAOKAN	China
	Mr. AZI Bey	Egypt
	Mr. GASCIN	France
	Mr. KAPGAMBELIS	Greece
	Mrs. MEHTA	India
	Mr. AZKUL	Lebanon
	Mr. WAFED	Pakistan

Members:  
(Cont'd)

Mr. BORATYNSKI	Poland
Mrs. ROSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. HOROZOV	Union of Soviet Socialist Republics
Mr. BOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present:

Miss MANAS	Commission on the Status of Women
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Representative of a specialised agency:

Mr. PICKFORD	International Labour Organisation (ILO)
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Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
Miss KAEN	World Federation of Trade Unions (WFTU)

Category B:

Mr. HOLDE	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. SOUDAN	International Federation of Business and Professional Women
Mrs. HYMER	
Mr. JACOBY	World Jewish Congress
Mrs. POLSTEIN	World Union for Progressive Judaism
Miss FARNER	
Miss SCHAEFER	World Union of Catholic Women's Organizations
Mr. PENCE	World's Alliance of Young Men's Christian Associations

Secretariat:

Mr. DAS	Secretary of the Commission
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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:  
PART III OF THE DRAFT COVENANT DRAWN UP BY THE COMMISSION AT ITS SEVENTH SESSION  
(E/1992, E/CN.4/654, E/CN.4/654/Add.1, E/CN.4/654/Add.2, E/CN.4/654/Add.3,  
E/CN.4/654/Add.4, E/CN.4/654/Add.5, E/CN.4/654/Add.6, E/CN.4/655,  
E/CN.4/655/Add.1, E/CN.4/655/Add.2, E/CN.4/655/Add.3, E/CN.4/655/Add.4,  
E/CN.4/650, E/CN.4/660, E/CN.4/661, E/CN.4/1930.35, E/CN.4/L.45, E/CN.4/L.46,  
E/CN.4/L.47)

The CHAIRMAN recalled that at the preceding meeting the Commission had decided to begin by considering part III of the draft covenant drawn up at its seventh session, and to deal first with articles 20 to 32 and any additional articles proposed before considering article 19.

Under that arrangement, the Commission would next address itself to articles 20, 21 and 22. He proposed that the time limit for submission of amendments to those articles should be noon on Monday, 28 April.

It was so decided.

The CHAIRMAN then proposed that the time limit for submission of new proposals and amendments to all the other articles in part III should be 5.30 p.m. on Wednesday, 30 April.

Mr. EDARE (United Kingdom) thought that more time should be allowed.

Mrs. ROOSEVELT (United States of America) considered the time ample; much of the relevant material had been in the hands of members since the previous session.

The Chairman's proposal was adopted by 5 votes to 4.

The CHAIRMAN welcomed Miss Mañas, representative of the Commission on the Status of Women. He recalled that in its resolution 46 (IV) the Economic and Social Council had authorized the officers of that Commission to be present and participate without vote in the deliberations of the Commission on Human Rights when sections of the draft covenant on human rights concerning the particular rights of women were being considered. Miss Mañas would therefore be free to make statements on any article of concern to her Commission, and in particular on article 21.

Miss MAÑAS (Commission on Status of Women) expressed her gratitude to the Chairman for his kind welcome and stated that she would in due course avail herself of the opportunity offered to her to address the Commission.

Mr. HOGRE (United Kingdom) said that, as the record showed, his Government was greatly concerned with the promotion of economic, social and cultural rights, not only in its own country but everywhere in the world, and was prepared to co-operate in any international action likely to achieve that end.

The United Kingdom had always resisted the inclusion of those rights in a single covenant, not because it considered them in any way less important than civil and political rights, but because of a vital difference inherent in their very nature. Broadly speaking the realization of civil and political rights meant imposing a limitation on State or other interference with the rights of the individual; that could be achieved by means of laws which the State was able to enact and enforce. The full enjoyment of economic, social and cultural rights, on the other hand, was less dependent on action by the State than on domestic and international economic and social conditions over which the State had little or no control and which not only varied greatly from country to country but were liable to sudden change.

While the United Kingdom delegation thought it possible to draw up a covenant on civil and political rights imposing precise and uniform legal obligations which could be enforced, it maintained its view that in the case of economic, social and cultural rights such a course could not be pursued. It had consequently welcomed the decision of the General Assembly to separate those rights from the civil and political rights, and would oppose any recommendation that the two covenants should again be merged.

The United Kingdom delegation felt considerable doubt whether a multilateral treaty was the best approach to ensuring the attainment and maintenance of economic, social and cultural rights throughout the world. Most of those rights fell within the competence of the specialized agencies, which were better able to deal with them. It was somewhat reassuring that in regard to those rights the Commission had made no attempt to impose uniform legal obligations on all States but had rather formulated desiderata in broad and general terms. A covenant of that type might prove to be a useful instrument, and while his delegation reserved its final attitude until the draft had been completed, it was prepared to work loyally with the Commission to prepare a text along those lines.

/The CHAIRMAN

The CHAIRMAN said that, with the Commission's assent, the representative of the International Confederation of Free Trade Unions, a non-governmental organization in category A consultative status, would speak.

Miss SENDER (International Confederation of Free Trade Unions) said that her organization had been disturbed to hear that a group of States had declared that they would not permit the implementation of the covenant on their territories because that would entail interference in their domestic concerns. If the United Nations framed international law, there must be international enforcement; otherwise the covenant on human rights would merely be a weaker version of the Declaration. Furthermore, countries which were not going to permit full implementation could make the stipulations much more exacting, as the covenant would be binding only on others. The ICFTU had always insisted, often without receiving much encouragement, that the economic, social and cultural rights should be included in the draft covenant. It had never underestimated the difficulties; whether they had been overcome by the separation of the two draft covenants was doubtful. To the argument that the enactment and enforcement of these rights would require much new legislation, whereas the other class of rights was already justifiable, it might be objected that the political and civil rights would also require considerable legislation in the new and the under-developed countries. Most of the rights enunciated in part III were already covered by ILO conventions, but as some countries were not members of the ILO, measures of implementation were required for their enforcement in all countries.

She agreed with the view that the obligations in the draft covenant should be worded more specifically. The ILO might collate the main articles in part III with the corresponding ILO conventions so that the more precise language used in these conventions could be adopted in the draft covenant wherever possible. Moreover, the substance of all existing ILO covenants should be included in the draft covenant. The right to strike in certain circumstances, as regulated in the ILO conventions on the right of association, and the right to collective bargaining should certainly be included. Article 21 might well include a reference to the full and effective protection of the worker engaged upon work likely to endanger his health and in article 22 the difficulties of under-developed countries in establishing a social security system immediately might be recognized by a statement that it could be implanted by stages, in accordance with their rate of development. The right of trade unions to lodge petitions should be recognized at least by those countries which had proposed the investigation of the violation of trade union rights. The idea expressed in the Third Committee that international  
/investigations

investigations and enquiries should be included in the measures of implementation was a good one, but she appreciated the position of those who insisted that, if they were to be held, they must be held in all countries.

Articles 20, 21 and 22

The CHAIRMAN directed the Commission's attention to articles 20, 21 and 22 of the draft covenant drawn up by the Commission at its seventh session (E/1992).

Mrs. ROOSEVELT (United States of America) said that she was prepared to vote for all three articles without any change in their wording. She wished, however, to recall the recommendation of the Governing Body of the ILO that the word "minimum" in article 21, sub-paragraph (b) should be omitted because it was unnecessary and limitative. It would be of interest to hear the ILO's representative's views on that point, particularly as the tripartite delegation of the ILO had been of great assistance to the Commission the previous year in the drafting of the articles in question.

Mr. EGARE (United Kingdom) agreed with the ILO that the word "minimum" served no useful purpose in an article drafted in general terms, and was prepared to propose its deletion. With that reservation, he was ready to accept the three articles.

Mrs. MEHTA (India) wondered how the ILO's position that the articles on economic, social and cultural rights should be drafted in broad general terms was to be reconciled with the General Assembly's wish that they should be phrased in precise legal terms.

Mr. PICKFORD (International Labour Organization) said that the ILO appreciated the comments of various representatives, both in the Third Committee and in the Commission, on the collaboration of the specialized agencies with the Commission.

The ILO had a direct interest in a number of the articles in part III of the draft covenant drawn up by the Commission at its seventh session, and it had prepared many legal instruments dealing with those matters. It had done so in conferences at which employers and workers, as well as Governments, were represented, a fact to which the highest importance was attached.

/When articles

When articles 20, 21 and 22 had been drafted, a tripartite delegation of the ILO had expressed certain views, but had been unable to commit the Governing Body. The latter had since, however, examined the articles and had communicated its views on them to the Economic and Social Council and to the General Assembly. It had only one comment on their formulation, concerning the word "minimum" in article 21, sub-paragraph (a) which might have a limitative effect. The suggestion was made therefore that it should be deleted.

In reply to the Indian representative, he said that it had been objected in the past that some of the articles were not detailed enough. It was a mistake, however, to think that greater detail meant greater precision. Many detailed proposals had been rejected by the Commission at its previous session because their net effect had been to limit the right in question and to rob the article of its full force. The fact was that some of the articles under consideration, in spite of their brevity, were extremely precise, and each word had been weighed with great care. Article 22 which dealt with the right to social security consisted of a single sentence; but the requisite details would be supplied by the ILO Conference which would consider that year a draft convention on minimum standards of social security containing over seventy articles. The ILO desired that harmony should be preserved between the broad recognition of various rights in the covenant and the detailed definition of those rights by the ILO. The form chosen by the Commission at its previous session was in accord with that view.

The CHAIRMAN drew the Commission's attention to paragraph 13 of document E/CN.4/650, in which the Secretariat stated that there was in the French text of article 20 no equivalent of the word "opportunity" which appeared in the English wording.

AZMI Bey (Egypt) recalled that the text had originally been submitted in French; thus, the French was the basic text and the English should be changed to concord with it.

The CHAIRMAN said that the origin of the text was not so important as the fact that the word "opportunity" in an economic context had a very strong philosophical connotation.

Mr. KAPLAN

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Mr. KARAMELIS (Greece) observed that the equivalent of "if he so desires" was also lacking in the French text.

Mr. AZOUZ (Lebanon) much preferred the English text, as it was closer to the meaning which the Commission intended.

In general, the new status of the economic, social and cultural rights as a separate draft covenant should be taken into account in revising the articles. When it had been thought that those rights would be included in a single draft covenant, they had not been drafted in as trenchant wording as they might have been, lest States which had some doubts about their propriety should be deterred from signing and ratifying the covenant. Now that there was to be a separate draft covenant on the economic, social and cultural rights, some delegations would undoubtedly wish not only to frame the articles in stronger language but also to extend the scope of their content. The French text of article 20, for example, gave the impression merely that the State had no right to prevent anyone from gaining his living by work which he freely accepted, whereas the intention had been that the State must provide an opportunity to gain a living by such work. The concept of "the right" was positive in some articles, such as article 26, and negative in others, such as article 27. In general, the language should be revised so as to make it quite clear that the State had a positive obligation to take action by which the enjoyment of the rights was ensured. The wording of the articles was, moreover, frequently inconsistent; the provision of legislative measures was specified only in article 25, although such a stipulation would certainly be appropriate in other articles as well. Articles, such as article 21 bore evident traces of the desire to tone down the wording. Yet other articles seemed to overlap and the same or similar phrases were used with different connotations.

Mr. WILDT (Belgium) said that he understood article 20 as it appeared in the French edition of document E/1992 ~ E/CN.4/610, to mean that States should not prevent any person from gaining a living by work. He would never have understood it to confer as a right to obtain work. If so interpreted, against its plain meaning, it would be practically impossible to enforce since the ability to provide work depended so much more on economic conditions than on the good will of States.

/s/ Mr. CHEN



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Mr. CASSIN (France) said that wherever it occurred the phrase "recognize the right" was very closely linked with article 19, paragraph 4, which the French delegation had proposed should be included as a general "umbrella" clause relating to economic, social and cultural rights and might well become article 1 of the new draft covenant. That clause would be strong enough to cover all justiciable rights, rights which could be enacted into immediate legislation and would not require the execution of long-term programmes. Article 20 contained both the positive and negative aspects, like the word "droit" itself. Inherent in that word was the notion that it could be exercised voluntarily; otherwise, it would be an obligation. Equally inherent was the notion of the ability to exercise the right. Thus, the concepts expressed in the English text by the words "opportunity" and "if he so desires" were both inherent in the word "droit" and any elaboration would weaken its very broad connotation, not only in article 20, but wherever it occurred.

Mr. AZNEUL (Lebanon) said that the narrow interpretation given by the Belgian representative and the not much broader one given by the representative of France showed that there was a difference of substance between the French and English texts and between the interpretation of the Belgian and French delegations and that of the Lebanese delegation. Obviously a text that could lend itself to such opposed interpretations must be unsatisfactory. To his delegation the Belgian representative's interpretation was totally unacceptable; the contemporary connotation of the right to work was not that the State could not prevent anyone from working -- which it was unlikely to do, in any case -- but that it was under an obligation to see that each of its citizens had an opportunity to work. The French representative's contention that the word "droit" necessarily embraced both the positive and the negative aspects was untenable in view of its use in such contexts as that of article 27, where it could only mean that the State had no right to prevent anyone forming trade unions, certainly not that the State must undertake to form them. Article 20 was open to further misinterpretation, as it might be construed to mean that the State must recognize the right of everyone to gain his living exclusively by work and that it would not recognize anyone's right to live on alms or by borrowing from his friends. Such was certainly not the intention, but it showed that the article as it stood was too loosely drafted.

/AZNEUL

AMM (Egypt) said that the Egyptian delegation had been instrumental in securing the inclusion of the word "minimum" in article 21, paragraph (b). In view of the circumstances prevailing in Egypt, the Egyptian delegation had feared that wages would be reduced to an intolerably low level making life impossible for the worker and had therefore proposed that the covenant should guarantee minimum remuneration for work. That provision in no way limited or set a ceiling on the maximum wages which could be paid.

During the previous year, Egypt had enacted legislation imposing a minimum wage for all workers. With a view to improving the situation in other countries of the world where incredibly low salaries still prevailed, the Egyptian delegation urged the retention of the word "minimum" and pointed to the harmful effects of omitting so important a guarantee on the pretext that it might discourage wage increases.

Referring to the French text of Article 20, he indicated that the objections expressed by the representative of Lebanon had been carefully considered the preceding year. The French text before the Committee had been adopted in the light of lengthy discussion and should not now be reconsidered.

The CHAIRMAN said that the lack of concordance between the English and French texts of Article 20 raised a significant and far reaching problem. The previous year, the Commission had adopted Article 20 of the draft covenant on the basis of the Rapporteur's report of the seventh session (E/CN.4/SR.257/Add.2) containing a French text almost identical with the English. Subsequently, however, Latin American representatives and the French representative had suggested that the Commission should not pass on the concordance of the English text with the French and Spanish at the seventh session but should empower the Secretariat, in consultation with the French delegation, to prepare a final text after the close of the session on the understanding that the Secretariat would assume full responsibility for the final text. As a result of consultations with the French delegation, the Secretariat had accepted and reproduced in document E/1992 a text of Article 20 which differed considerably from the version approved by the Commission in the Rapporteur's report. The Secretariat had in a footnote given in page 21 of the French text of E/1992 reported that, in accordance with the Commission's decision, it had consulted the French delegation and prepared a new text of Article 20. In order to prevent recurrence of similar difficulties, he urged the Commission to approve all texts in at least two working languages

before the

before the close of its session.

AMHI Bey (Egypt) stated that in the light of the Chairman's explanation that the text of Article 20 given in document E/1952 was fundamentally different from the text approved at the seventh session by the Commission, he withdrew his comments on the Lebanese representative's statement and requested the Commission to accept the text approved at its seventh session as the basis for its discussion.

Mr. JAMES CHUE (Chile) commented that delegations should not be expected to work in two languages and that in principle the Secretariat should continue to assume responsibility for preparing accurate translations.

In accordance with a request by Mrs. MCJANNET (United States of America) the CHAIRMAN stated that the original French text of Article 20 would be distributed to the Commission.

Mr. MORUZOV (Union of Soviet Socialist Republics) referred to resolution 544 (VI) in which the General Assembly instructed the Commission to improve the wording of the articles on economic, social and cultural rights in order to protect those rights more effectively. The Commission was therefore required not merely to reaffirm its work of the past year, but to seek improved texts.

Above all the Commission must not regress by accepting the negative approach of the representative of the United Kingdom or the restrictive interpretation of the representative of Belgium to whom the right to work signified the absence of governmental interference. The position of the French representative also tended to delay progress, while article 19, paragraph 4 which the latter had described as a safeguard was in fact a limitation which cancelled all the rights previously proclaimed.

In order to meet the General Assembly's instructions to improve the texts and protect the rights proclaimed therein more effectively, the USSR delegation had submitted a series of amendments to articles 20, 21 and 22 (E/CN.4/L.45, E/CN.4/L.46 and E/CN.4/L.47).

/s/ The UCCR

The USSR delegation considered that the present draft of article 20 was incomplete and inadequate because it did not provide for concrete implementation of a basic right without which all other rights were meaningless. A provision guaranteeing the right to work would achieve nothing unless it were applied to include a requirement that States guarantee the right "in such a way as to create conditions precluding any danger of death from hunger or exhaustion". In the contemporary world in which, according to an official FAO report, hunger was increasing and in which a meeting held in Vienna for the protection of children reported that millions of children were starving, living in ignorance, in fear and in the very shade of death, the Commission must take positive action. It could not disregard the reports that children were being sold by their destitute parents in Syria and Japan, that child labour was rampant, that the infant mortality rate was extremely high, that housing was generally inadequate and that the standard of living of workers was being constantly lowered, although the resources of the world were more than adequate to meet the needs of all mankind. In the United States, because of the armaments race, a small group of monopolists were reaping tremendous profits while the workers were victims of rising prices, increased taxes and a reduced standard of living. Under-developed countries and even highly developed countries were being exploited by American business.

An improvement of the intolerable conditions prevailing at present was possible as had been shown by the International Economic Conference in Moscow, which had been attended by representatives of forty-nine nations. Living conditions could be bettered by international co-operation, closer economic ties, and the removal of artificial barriers to trade. Article 20 and the other articles in Part III must be broadened to embody specific obligations for States to prevent workers from dying of hunger and exhaustion. Unless such action was taken, the covenant would not be a truly effective instrument but merely a negative and restricted statement of rights.

He reserved the right to explain the significance of the USSR amendments to articles 21 and 22 at a later stage.

AZMI Bey (Egypt), supported by Mr. AZKAL (Lebanon) and the CHAIRMAN challenged the statement of the USSR representative that children were sold in Syria. That allegation was completely unfounded.

The meeting rose at 1.20 p.m.

16/5 p.m.