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COMMISSION ON HUMAN RIGHTS

Eighty-Eession

JANUARY RECORD OF THE TWO HUNDRED AND SIXTY-NINTH MEETING

Held at Headquarters, New York,
on Friday, 29 April 1952, at 3.25 p.m.

CONTENTS:

Draft International Conventions on Human Rights and Measures of
Implementation (Basic documentation as in E/CN.4/HR.209, and E/CN.4/L.48,
E/CN.4/L.49, E/HR.4/L.50, E/CN.4/L.51, E/CN.4/L.52, E/CN.4/L.53, and Corr.1,
E/CN.4/L.54, E/HR.4/L.55, E/CR.4/L.56) (continued)

<u>Chairman:</u>	Mr. HALL	Lebanon
<u>Reporters:</u>	Mr. WEITMAN	Australia
<u>Members:</u>	Mr. HESOT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG SACHAN	China

Members (continued):

AZMI Bey	Egypt
Mr. CASSIN	France
Mr. KYROU	Greece
Mr. KATSAMBELIS	
Mrs. MEHA	India
Mr. AZKOU	Lebanon
Mr. WAHED	Pakistan
Mr. BOSATYNSKI	Poland
Mrs. RUCKEY	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. HOROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVRENOVIC	Yugoslavia

Also present:

Miss MARAS	Commission on the Status of Women
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Representatives of specialized agencies:

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

Representatives of non-governmental organizations:Category A:

Mr. LEARY	International Confederation of Free Trade Unions (ICTU)
Miss GENDER	
Miss FAHN	World Federation of Trade Unions (WFTU)

/Category B

Category B and registers:

Mrs. CARTER	{ Liaison Committee of Women's International Organizations International Council of Women
Mr. JACOBY	World Jewish Congress
Mr. MCKENWITZ	Consultative Council of Jewish Organizations
Mrs. ROBB	International Federation of University Women
Mrs. SUDAN	International Federation of Business and Professional Women
Mr. LEWIS	Aqudas Israel World Organization
Mrs. FARBER } Mrs. POLSTEIN }	World Union for Progressive Judaism
<u>Secretariat:</u>	
Mr. HUMPHREY	Representative of the Secretary-General
Mr. DAS } Miss KITCHEN }	Secretaries of the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(Basic documentation as in E/CN.4/SR.268 and E/CN.4/L.48, E/CN.4/L.49,
E/CN.4/L.50, E/CN.4/L.51, E/CN.4/L.52, E/CN.4/L.53 and Corr.2, E/CN.4/L.54,
E/CN.4/L.55, E/CN.4/L.56) (continued)

Mr. CASHIN (France) said that he was satisfied that the question of the discrepancy between the English and French texts of article 20 of the draft covenant had been settled, but he did not understand the criticisms levelled at him by the USSR representative. The responsibility for establishing texts lay neither with delegations nor with the Secretariat, but with the Commission itself.

/With regard

With regard to the subject matter of article 20, he replied to the USSR representative that no country was insensible to the problem of unemployment, and precisely to emphasize its gravity his delegation was anxious that the provisions referring to it should be preceded by a preamble. The threat of death from hunger or inanition mentioned in the USSR amendment (E/CN.4/L.45) was equally imminent for old people and children, and if no reference were made to it in a preamble it would have to be mentioned in the articles referring to these classes of persons.

With regard to the opening phrase of the USSR amendment, "this right should be guaranteed by the State", designed to stress the obligations of the State, the connexion between article 20 and article 19 paragraph 4, which used the formula "undertake to take steps", should not be forgotten. No State could guarantee the right to work to all persons capable of doing so, since, despite the progress already made, much still remained to be done and it was better to make only promises which could be kept. He was not sure that a full and unconditional guarantee of the right to work would meet the wishes of the workers; an absolute undertaking by States to that effect might eventually give the State the right to force people to work. His delegation could therefore not approve the USSR draft amendment (E/CN.4/L.45); it would prefer a general undertaking such as that given in article 19 paragraph 4.

At the sixth session of the General Assembly the representative of Israel had proposed that the undertakings of States should be divided into two categories: undertakings coming into effect at once, and those which arose from a long-term programme. That seemed a reasonable idea although difficult to put into effect; an undertaking could not be called immediately effective if its fulfilment depended on social programmes or international plans.

Mr. SANDA CRUZ (Chile) questioned the French representative's theory that the Commission was solely responsible for adopting a text in any language. The two working languages had an equal official status with the three others, each delegation worked in one language only and assumed responsibility only for the texts drafted in that language; responsibility for translation into other languages therefore lay with the Secretariat.

With regard to article 20, he disagreed with the French representative's

/suggestion

suggestion that a general clause should be included in the covenant, because, as the Commission had recognized by the form in which it had drafted article 25 and succeeding articles, economic, social and cultural rights called for guarantees from the State different from those required for civil and political rights. He therefore considered it necessary to formulate an express guarantee of the right to work.

Commenting on the amendment submitted by his delegation (E/CN.4/L.53) relating to undertakings by the State, he said that, contrary to the opinion voiced by the French representative when referring to the USSR amendment (E/CN.4/L.45), he saw no fear that the use of a general formula would open the door to the introduction of forced labour. He thought that the principle of freedom to choose employment would be strengthened and that the State would be obliged to pay due regard to the aspirations of the workers and the economic needs of the country. The USSR amendment seemed to him to refer more closely to article 21, which specified the conditions of work to be guaranteed. Furthermore, he thought that his delegation's amendment really defined the scope of the State's obligations, and he emphasized that full employment should be mentioned at that point, since all Member States had undertaken to guarantee it when they had signed the Charter.

The expression "full productive employment" in his delegation's amendment covered the idea contained in the USSR draft amendment.

Mr. NISOT (Belgium) said that article 19 paragraph 4, which might eventually become article 1 of the covenant should be considered at once as it would affect the meaning and scope of the provisions which would follow it; they could not be drafted until its content was known.

The CHAIRMAN pointed out that the United Nations Journal reported that the Commission had decided at its 267th meeting to study Part III of the draft covenant, beginning with articles 20 to 31, before deciding when

/it would

it would examine article 19. The French draft amendment (E/CN.4/L.55), which was based on the provisions of article 19, proposed the insertion of a new article before article 20, and the Commission might perhaps decide to examine that draft amendment before continuing its debate on articles 20 to 32 that would meet the wishes of the representative of Belgium.

Mrs. ROOSEVELT (United States of America) thought that the USSR draft amendment to article 20 (E/CN.4/L.45) was restrictive and her delegation could therefore not accept it. By a large majority the Commission at its seventh session had already rejected a similar proposal. The implementation of that article of the covenant might be better ensured by calling for private action rather than State intervention, since in many countries labour was not under absolute State control as in the USSR.

The draft amendment submitted by her delegation (E/CN.4/L.54) was intended to amend the text of article 19, making the first three paragraphs of the article a preamble and paragraph 4 the first article of the covenant. That first article would set the tone for all the others, and it would therefore be unnecessary to make provision elsewhere, as certain delegations wished, for measures to be taken by the States.

Article 1 paragraph 2 as proposed by her delegation referred to the private action and the legislative and other measures envisaged in other articles. It would be better if the State undertook not to intervene in certain fields, particularly in cultural rights (article 30) where, as UNESCO had pointed out in document E/1752, individual action was surely preferable to legislation. Society owed a great debt to scholars, particularly in medicine. The covenant should not refer to the implementation of those rights because, in order to obtain the largest possible number of accessions, nothing must be done to revolutionize the traditional methods of States in the matter. The covenant, however, should include an obligation to achieve its purposes.

/Individuals

Individuals must be allowed to enjoy human rights beyond those specifically conceded by the State. Freedom to enjoy such rights must be established, otherwise economic, social and cultural rights would be illusory and devoid of real meaning.

She announced that she hastened to repudiate the ridiculous statement of the USSR representative at the Commission's 268th meeting that millions of persons were threatened with death from hunger or inanition in the United States.

The USSR draft amendment (E/CN.4/L.45) ignored that article 21 had a wider purpose than precluding the threat of death from hunger or inanition: it was designed to ensure fair wages which would provide all workers with a decent living for themselves and their families, together with safe and healthy working conditions.

The CHAIRMAN reminded the Commission that both the French amendment (E/CN.4/L.55) and the United States amendment (E/CN.4/L.54) referred to an article which would be inserted before article 20.

AZMI Bey (Egypt) stressed the difference between the wording of the French amendment (E/CN.4/L.55) in reference to the text of article 19 paragraph 4, "to the maximum of their available resources", and that of the United States amendment (E/CN.4/L.54), "with due regard to its available resources". That question had already been discussed at the Commission's seventh session, and the words "to the maximum of their available resources" had been adopted. His delegation would submit an amendment to the United States amendment.

In conclusion, he asked whether the Chairman considered the United States proposal concerning article 1 as an amendment to the French proposal.

The CHAIRMAN replied that the United States proposal (E/CN.4/L.54) was a draft amendment wholly separate from the French proposal (E/CN.4/L.55). Furthermore, the Commission should decide whether it would start at once to examine article 1 of the Covenant.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) informed the Commission that the title of the draft amendment submitted by his delegation (E/CN.4/L.53) was incorrect; it was not a new article to follow article 24, but a draft amendment to article 20. His delegation reserved the right to change the place of that amendment later if no guaranty clauses were inserted in articles 21, 22 and 23.

The CHAIRMAN announced that a corrigendum would be produced (E/CN.4/L.53/Corr.1). He wished to know if the Commission would agree to study the proposals put forward by the representatives of France and the United States for article 1 of covenant II (Economic, Social and Cultural Rights).

Mr. JEVRENOVIC (Yugoslavia) said that his remarks would partly answer that question. In his opinion the questions of human rights and of the obligations of States should be kept clearly apart. Article 3 of the draft covenant proclaimed the principle that everyone had the right to life; no one, however, could live without means of subsistence and the universal right to work must now be proclaimed. He saw no purpose in adding that the State must recognize that right, since to do so would imply that, unless such a statement were included, States would not recognize the rights proclaimed in the draft covenant.

With regard to the Belgian representative's proposal, the Commission should remember that it had reached a decision and had already begun to study part III of the draft covenant, beginning with article 20; there was no valid reason why it should go back on its decision. Moreover, to consider the obligations of States before knowing to what rights those obligations would apply would not be logical.

Mr. WAHEED (Pakistan) stated that, although his delegation was in favour of a single covenant, it would abide by the General Assembly's decision and would faithfully co-operate in drafting the two covenants proposed, while reserving the right to support any recommendation by the Commission asking the General Assembly to reconsider its decision.

/He wished

He wished to make certain general comments on all the articles to be included in covenant II. The definition of economic and social rights was of primary importance, since the introduction of a true world democracy depended on the application of these rights. By drafting the covenant on economic and social rights, the Commission would be promoting the establishment of a peace based on social and economic justice. It would dispel men's fears, which had their roots in sickness, unemployment and lack of social security. The concepts contained in the covenant were not new to the peoples of Islam, whose culture was based on the primacy of spiritual values. It was of the utmost importance that all these rights, with any additional rights which might be included in the covenant, should be accompanied by guarantees. That was particularly true of the right to work. Provision must also be made for the implementation of all the economic and social rights. His delegation would therefore support the text submitted by the French representative (E/CH.4/L.55). There was a certain lack of balance in the general outline of part III, some rights being proclaimed in general terms whereas others were stated in detail. It would be advisable, for instance, to amend the articles on the right to social security and the right to adequate housing in order to balance the draft.

Mrs. MELIA (India) supported the Belgian representative's proposal. Before studying article 20 and the succeeding articles the Commission must reach a decision on the article which was to precede them. In view of the limited resources at its disposal, India would be unable to apply certain rights; it must therefore know exactly what obligations were envisaged with regard to those rights.

Mr. BRACCO (Uruguay) wished to comment on article 20, which quite obviously raised a problem. Work was a fundamental human right and must therefore, like the other fundamental rights, be specifically guaranteed by the State. His delegation was in favour of the principle underlying the USSR proposal (E/CH.4/L.55), but wondered whether it would not be better to insert that provision before article 10.

/His delegation

His delegation would support the Chilean proposal (E/CN.4/L.53/Corr.2), to which it might propose an amendment.

He quoted certain provisions of the Uruguayan Constitution to show that Uruguay attached as much importance to the right to work as to other fundamental human rights and that workers in Uruguay were jealously protected by the State.

Mr. KUFALENKO (Ukrainian Soviet Socialist Republic) recalled that his delegation had already stated its point of view on economic, social and cultural rights at previous sessions of the Commission and in the General Assembly. Nevertheless, he would like to dwell for a moment on certain special aspects of those rights.

Economic rights dominated all other rights: the enjoyment of civil rights might remain an empty phrase if the individual were deprived of his economic rights. It was useless to proclaim the right to life if the right to work were not also stated and if States did not undertake to guarantee that right, with the object of creating conditions precluding the threat of death from hunger or inanition. His country's experience proved that such a right, like the other fundamental human rights, could be guaranteed and achieved. He read article 38 of the Ukrainian Constitution and pointed out that the absence of unemployment and the constant rise in the standard of living proved that the right to work was truly put into practice in the Ukraine. It was no doubt impossible to insist that similar conditions should immediately be created in every State, since several years would have to elapse before many of them achieved similar results. Nevertheless, the efforts and achievements of countries which were struggling for the welfare of the individual should be borne in mind and specific guarantee must be laid down with regard to the right to work. That was the more necessary since that right was respected only by a few Member States. Millions of persons were threatened with the loss of their livelihood, and millions of unemployed were forced to accept any sort of work at all. Numerous examples could be quoted to illustrate his statements, and a number of such examples existed in the United States, despite the denials of the representative of that country.

/He went on

He went on to quote extracts from statements by the President of the United States, recent Press articles and official statistics to show that the workers were exploited by the monopolies, which made enormous profits and were responsible for the extremely low standard of living of a certain section of the population. The effects of that exploitation were felt not only in the United States but also in the countries which more or less directly depended on it.

The problem before the Commission was extremely serious. Unless it were solved, there could be no question of the real fulfilment of human rights. It was essential that the covenant should contain provisions on the obligations of States, and he would therefore support the USSR proposal.

Under the procedure proposed by the Belgian representative, the Commission would study the preamble to covenant II -- the provisions now contained in article 19. However, the Commission had already decided that it would not study that article until it had considered the articles containing substantive provisions. It would be preferable to adhere to that procedure.

Mrs. ROSSINI (United States of America) thought that the attacks which certain delegations seemed to feel bound to level against her country on every occasion were, to say the least of it, out of place and incompatible with the spirit in which the Commission should work. She would not reply formally and in detail, but would point out in connexion with the figures for the average income of American workers quoted by the Ukrainian representative that statistics were always open to interpretation and had no absolute value in themselves. The standard of living in the United States was second to none, but the authorities were making tireless efforts to improve it and therefore kept a very close watch on statistical data on, for instance, unemployment, the average income of workers, and housing conditions.

Mr. CASSENI (France) recalled that he had warned the Commission that the discussion of articles 29 to 32 of the draft covenant would inevitably involve the discussion of article 19, paragraph 4. It could not be otherwise unless the Commission decided to restrict the discussion to a purely theoretical recognition of the rights proclaimed in articles 26 to 32.

/s/ J. H. Dey

AZMI Bey (Egypt) pointed out that the Commission had to act on the question raised by the Belgian representative, namely whether, before continuing its consideration of articles 20 to 32 of the draft covenant, it should take up the United States amendment to article 19 (E/CH.4/L.54) and the draft article proposed by France (E/CH.4/L.55).

The CHAIRMAN requested the Commission to avoid procedural discussions, since it was entitled to go back on the decision adopted at its 267th meeting and to accept the procedure suggested in the United States and French drafts.

Mr. SANZA CRUZ (Chile) had no objection on procedural grounds to a new decision by the Commission, although he had opposed the "umbrella" clause. He shared the view of the Yugoslav representative that the Commission should first decide on the rights to be assured by that clause. He asked the United States and French delegations whether the articles which they proposed implied that they wished to exclude from the articles on economic, social and cultural rights the specific guarantees which those rights demanded. If that were so, his delegation wished to avoid excluding the specific guarantees pertaining to each right by the introduction of a general clause.

The CHAIRMAN said that the Commission had decided at its 267th meeting to consider first articles 20 to 32 of the third part of the draft covenant. The United States and French delegations had since submitted draft articles which they called respectively article 1 and article 19 of the draft covenant. The question was whether those draft articles should be taken up before articles 20 to 32.

Mr. MENCZOV (Union of Soviet Socialist Republics) wondered why the Commission had to go back on the decision adopted after long procedural discussions. It had decided to start with articles 20 to 32 of the draft covenant. To begin with the "umbrella" clause was to put the cart before the horse. The desire to proceed thus was a screen for political motives. He considered it pointless to repeat the arguments put forward by the Chilean
/delegation

delegation in defence of the order adopted by the Commission. The real reason why changes in that order were suggested was that it was difficult to vote openly against the USSR draft amendment (E/CN.4/L.45) and the Chilean draft article (E/CN.4/L.55). It was much easier to nullify these drafts by proposing a general clause which did not specify the commitments of States in respect of each economic, social and cultural right.

The General Assembly had requested the Commission, in its resolution 34/ (VI), to improve the wording of the articles on these rights, in other words to make the substance specific and to provide precise guarantees to ensure that the rights set forth were exercised. The Commission was not justified in changing the procedure which it had decided to follow.

Mr. STAMBUKI (Poland) shared the view of the USSR representative.

Mr. NICOT (Belgium) appreciated the arguments of the Chilean representative and saw no reason why the Commission should not continue to consider articles 20 to 23 of the draft covenant, but doubted whether decisions then adopted were valid.

Mrs. KORNHIE (United States of America) explained that her delegation, in submitting its draft amendment to articles 19 of the draft covenant, had only been following the procedure laid down by the Commission at its 26/th meeting. The article 1 which she was proposing would apply to all the other articles of the covenant on economic, social and cultural rights but would not exclude the insertion of more specific provisions in each of the articles pertaining to those rights.

Mr. SUTZ (Chile) stated that he would support a general clause only if it did not exclude the possibility of specifying measures of implementation for each of the various economic, social and cultural rights.

/The CHAIRMAN

The CHAIRMAN assured the USSR and Ukrainian delegations that he was at one with them in appreciating the need for expediting the Commission's work, but that he had considered it his duty in all fairness to request a reply to the question raised by Belgium, namely whether the United States and French drafts should be considered. He would not press the Commission for an immediate decision.

The meeting rose at 5.35 p.m.