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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTY-FOURTH MEETING ^{1/}

Held at Headquarters, New York,
on Monday, 7 May 1955, at 2.45 p. m.

CONTENTS:

Draft international covenants on human rights and measures of implementation (E/1952; E/CN.4/554, E/CN.4/554/L.21.1 to 6, E/CN.4/555, E/CN.4/555/L.21.1 to 4, E/CN.4/556, E/CN.4/560, E/CN.4/561, E/CN.4/560.25, E/CN.4/L.237, E/CN.4/L.64/Rev.2; E/CN.4/L.60) (continued)

<u>Chairman:</u>	Mr. HAJEK	Latvia
<u>Reporteurs:</u>	Mr. WHITMAN	Australia
<u>Members:</u>	Mr. HLOOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHENG BANGHE	China

^{1/} The 252nd meeting of the Commission having been a closed meeting, the summary record has been distributed only to the members of the Commission.

Members: (continued)

ANZI Foy	Egypt
Mr. JUTSKIY	France
Mr. KYROU	Greece
Mrs. MEHTA	India
Mr. ABRAH	Lebanon
Mr. MAJED	Pakistan
Mr. POLAKOWSKI	
Mrs. ROUSEL	in
Mr. KOVALEVO	Ukrainian Soviet Socialist Republic
Mr. KODZOV	Union of Soviet Socialist Republics
Mr. HAINES	United Kingdom of Great Britain and Northern Ireland
Mr. SEMMLER	United States of America
Mr. LUSCO	Uruguay
Mr. JEVSEVIC	Yugoslavia

Representatives of specialized agencies:

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

Representatives of non-governmental organizations:

Category A:

Mr. LEAFY	} International Confederation of Free Trade Unions (ICFTU)
Miss GENDER	
Miss KAHN	World Federation of Trade Unions (WFTU)

Category B and Register:

Mrs. PARSONS	International Council of Women
Mrs. SOUNJH	International Federation of Business and Professional Women
Miss SCHAEFER	International Union of Catholic Women's Leagues
Miss HOBE	Liaison Committee of Women's

Category B and Registry (continued)

Mr. JOSEF	}	World Jewish Congress
Mr. FEUERBERG		
Mr. HOWLANDS		World Union for Progressive Judaism
Miss DEGENH		International Union for Child Welfare

Secretariat:

Mr. KUTNER		Director, Division of Human Rights
Mr. SCHLES		Assistant Director, Division of Human Rights
Mr. DAI	}	Secretaries of the Commission
Miss KITCHEN		

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(E/1972; E/CH.4/654, E/CH.4/654/Add.1 to 6, E/CH.4/655, E/CH.4/655/Add.1 to 4,
E/CH.4/656, E/CH.4/660, E/CH.4/661, E/CH.4/100.35, E/CH.4/L.7,
E/CH.4/L.64/Rev.2; E/CH.4/L.66) (continued)

The CHAIRMAN invited the Commission to continue its examination of article 22 of the draft covenant on economic, social and cultural rights.

Mr. WHITLAW (Australia) agreed with the views expressed by the Egyptian and Indian representatives. He also agreed with the representative of the International Labour Organisation that article 22 must necessarily be drafted in general terms, and recognize the right of everyone to social security. That right was so complex that any list of its constituent elements, including not only existing ones but also those that might emerge as a result of the social experience of the various States, might prove too restricted and overlook certain fundamental activities to which that right should apply.

The representative of the Soviet Union had claimed that articles 22, 23 and 25 of the Universal Declaration of Human Rights should be taken as the basis for article 22 of the covenant. The Australian delegation felt on the contrary that in the Declaration, the concepts relating to social security were not given concise and final expression and that they did not embrace all the existing

/or potential

or potential aspects of the rights enumerated. It was not for the Commission to study in detail the rights proclaimed in those articles of the Declaration, particularly article 25; they would be considered by ILO at its next conference. Each country ensured the implementation of the right to social security by the legislative and financial methods which it considered best and through its own social services. The covenant should not go into small details of implementation.

His delegation was therefore in favour of retaining article 22 of the draft covenant as it stood.

Mr. BORWYNSKI (Poland) agreed on the importance of the right to social security, but added that the Commission must consider what effective steps were taken to guarantee that right in certain countries. He did not share the United Kingdom representative's optimistic view that the social conscience of the twentieth century had found expression in achievements in the field of social security. To judge from the statistics published by ILO in its international enquiry on social security, these achievements were less encouraging than might appear from the picture painted by the representative of the United Kingdom.

The question whether social insurance was only one element of social security was of no practical interest. The legislation and administration of social insurance clearly set it apart from the general concept of social security. As that distinction was recognized, there was no reason why social insurance should not be explicitly referred to in article 22 of the covenant.

The expense of social insurance must be assumed by the State and employers, not by the persons insured, in conformity with existing legislation in each country.

Mr. JENTENOVIC (Yugoslavia) said that the criticisms of his amendment (E/CN.4/L.64/Rev.2) had not convinced him that it was possible to enjoy any right without being guaranteed the means of subsistence either through employment or through social insurance which protected individuals against the possible loss of their means of subsistence. The Yugoslav amendment was not limitative; it merely enumerated some of the risks that might usefully

be covered

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be covered by social insurance, and its purpose was to ensure that the State should guarantee to all the material resources without which it was impossible to enjoy the other fundamental human rights.

Article 22 of the draft covenant was too general and was not, therefore, in conformity with the General Assembly's directive that the obligations of States should be more closely defined.

Mrs. MOGEL (Sweden) thought that if the forms of social protection by which the right should be implemented were listed in article 22 of the draft covenant, the scope of that article might be restricted. She would therefore prefer the Commission to retain the existing text of article 22. With regard to the financing of social insurance she thought that each country was entitled to decide for itself what procedure was best suited to it.

Mr. MOKUL (Lebanon) remarked that some delegations seemed to agree with the USSR delegation that article 22 should be expanded by indicating the measures which must be taken to guarantee social security, mentioning in particular social insurance financed by the State and employers. That procedure would lack flexibility and would not take into account essential differences between countries.

Other delegations wished to expand the article by defining what made up the right to social security. His delegation was inclined to favour that tendency in principle, although the component parts of the right to social security would vary from one country to another. It would seem difficult to draw up a list of the factors entering into the concept of social security without being limitative. The Yugoslav amendment, for example, mentioned only some of those factors. He hoped that ILO would prepare a convention on social security which would enable the General Assembly to decide what were the minimum ingredients of the right to social security.

A third group of delegations preferred the existing text of article 22 of the draft covenant. The Lebanese delegation was in agreement with that group although it hoped that the future work of ILO and the General Assembly would make it possible to state the right to social security in more specific terms.

/s/ M. MUKOVIC

Mr. KOROZOV (Union of Soviet Socialist Republics) was surprised that the Lebanese representative would agree to vote in favour of a text which he admitted to be obscure, in the hope that it might later be clarified. If the concept of social security had to be more concretely expressed, it was for the Commission on Human Rights to take the necessary action.

In reply to the delegations that criticized the USSR amendment (E/CN.4/L.47) for placing social insurance and social security on the same level, he was quite prepared to admit that social insurance was part of social security and if it would satisfy those delegations he would willingly amend his text to read "the right of everyone to social security, including social insurance". He added that the two parts of his amendment could be separated, so that the first could be accepted regardless of the second, which concerned the financing of social insurance. It was essential that any article on social security should state the principle of social insurance, which at the moment was recognized in the legislation of only a very few States. He was not trying to impose on other States as complete a system of social insurance as that in operation in the USSR but he did think it might be possible to find a common denominator for all States, the application of which could vary from State to State. If there were delegations which still objected to his amendment after that modification, he would have good grounds for assuming that they were really opposed to the actual principle of social insurance. Yet conditions in certain countries showed clearly how essential it was that that principle should be applied to them.

Giving various examples to support his argument, he pointed out that in the United Kingdom the workers bore the main burden of social insurance and old age pensions were inadequate because of the constant rise in the cost of living. That being so, he was surprised that the United Kingdom representative had boasted of his country's social insurance system.

In the United States, employers contributed very little to the financing of social insurance, the greater part being paid by the workers.

The Chilean representative's observations on the USSR amendment were quite unwarranted. The amendment made it possible for Governments to have the cost of social insurance borne by the State or by the employer, according to the economic and social system of the country, and prevented social security being set up at the expense of the workers.

/s/ M. WAHED

Mr. UNZED (Pakistan) declared that his ILO representative's statement, among others, had convinced his delegation that it would be better not to attempt to change the wording of article 22. He associated himself with the Chilean representative on the subject of the financing of social insurance.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) stressed the importance of the right to social security and social insurance, a right that was embodied in article 100 of the Ukrainian Constitution. He was sorry to note that many countries, among them the United States, had not yet guaranteed that right in a satisfactory manner.

The Ukrainian delegation would support the USSR amendment to article 22. It had been alleged by certain delegations that the adoption of that amendment would prove extremely costly to Governments and would increase the actual earnings of workers. In his opinion, everything must be sacrificed to the life and health of the workers and to improving their working conditions. To ask workers to contribute to social insurance was tantamount to imposing additional taxation on them and reducing their earnings, as was the case in the United States, where the conditions governing the social insurance system were such that very few workers could derive any benefit from it.

It did not agree that the USSR amendment was designed to impose Soviet legislation on other States. In fact, the amendment expressly provided that the relevant legislation in force in each country should continue to be applied.

The COMBROW pointed out that the United States representative in the Commission on Human Rights had never attacked other countries and had not replied to the attacks made upon their own country except when they had felt constrained to do so. He therefore asked the USSR and Ukrainian representatives to desist from citing examples taken from one country only and to restrict their observations to the texts under consideration, in the interest of the work of the Commission, which was a purely technical organ.

Mr. BROWN

Mr. FOAPE (United Kingdom) protested that the USSR representative's remarks about the United Kingdom were out of date and did certainly not represent a valid criticism of the United Kingdom social security system.

Mr. ERACCO (Uruguay) was sorry that some representatives had criticized the Yugoslav amendment as having a restrictive effect. To meet that criticism, he suggested that the words "and, among other rights," should be inserted before the words "the right to social insurance" in paragraph 1 of his amendment.

Mr. GEMERIAN (United States of America) protested against the inaccurate allegations the USSR and Ukrainian representatives had made concerning the United States and against the waste of time such statements entailed for the Commission.

Mr. AZEQUE (Finland) wished to clarify his delegation's position, in view of the USSR representative's remarks. He was perfectly aware of the meaning of the expression "social security" but in view of the fact that some countries interpreted the term in a broad sense, while for others it had a limited meaning, he thought it essential to adopt a less controversial expression. His delegation would, however, vote in favour of the present text of article 72.

The GEMERIAN pointed out that the rules of procedure authorized him to refuse members the right to reply. He himself had always used that right with moderation and he hoped the members of the Commission would do likewise.

He drew attention to the fact that the last words in the French text of document E/CN.4/L.47 should read "la législation en vigueur dans chaque pays".

He asked the Yugoslav representative if he accepted the Uruguayan representative's suggestion.

Mr. JIVKOVIC (Yugoslavia) replied in the affirmative.

/The GEMERIAN

The CHAIRMAN stated that, if there were no objection, the words "and, among other rights," would be inserted after the words "and his family" in paragraph 1 of the Yugoslav amendment.

Mr. EDWARDS (United Kingdom) thought that the addition of those words would make the sentence incomprehensible. It was impossible, at least in the English text, to use the words "and, among other rights," when only one right was referred to at the beginning of article 25, namely, the right of all persons to social security.

Mr. FRACCO (Uruguay) said that the words could be used quite logically in the Spanish text, since the amendment went on to enumerate the various rights of the individual in case of unemployment, sickness or industrial accidents, the sum total of these rights constituting the right to social security.

Mr. SCHERER (United States of America) declared that the amendment in question did nothing to broaden the scope of the text, since the expression "social security" was still restricted by the word "namely" followed by a list of several rights. The list, which had a limiting effect, was obviously incomplete.

Mrs. MIDD (India) thought that at the present stage the Commission was not called upon to study the substance of the new version of the Yugoslav amendment but to decide whether it was admissible. In view of the difficulties to which it appeared to give rise, it would be better to declare it inadmissible.

The CHAIRMAN asked the Norwegian representative whether he wished the Commission to decide upon the admissibility of the amendment he had proposed.

/s/ Mr. FRACCO

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Mr. BRACCO (Uruguay) said that since his suggestion had been accepted by the Yugoslav representative, it was the latter, if anyone, who should ask the Commission's opinion.

Mr. JUREKOVIC (Yugoslavia) would not insist that the Commission should take a decision on the matter. He pointed out, however, that so far last-minute amendments had been accepted without any difficulty.

Mr. Say (Egypt) thought that the Commission would be acting with too much rigidity if it refused the new version of the Yugoslav amendment. The difficulty to which the United Kingdom representative had drawn attention could be overcome if the words to be added were "including" or "in particular" instead of "and, among other rights".

Mr. NICOL (Belgium) supported the Egyptian representative's remark.

The CHAIRMAN pointed out that the Yugoslav representative had changed the wording of his delegation's amendment after the general debate had closed. He could not, therefore, accept the new version unless the Commission as a whole agreed to it, and the Indian representative had in fact raised an objection to it.

Mr. NIKOLOV (Union of Soviet Socialist Republics) fully supported the Chairman's attitude.

Mr. ZEMUL (Latavia) thought that the acceptance of an amendment after either the list of speakers or the general debate had been closed involved the reopening of the debate, to give every member a chance of expressing his point of view.

The CHAIRMAN declared that such a procedure was quite admissible providing the Commission so decided.

Mr. JUREKOVIC

Mr. JUKIĆ (Yugoslavia) reminded the Commission that he had said he did not insist upon its giving a decision concerning the admissibility of the amendment in question.

The CHAIRMAN declared that the Commission would vote upon the text as it appeared in document E/CN.4/L.62/rev.2. He called upon the Commission to vote on the various amendments to article 22 in the following order: the USSR amendment (E/CN.4/L.67), paragraph 1 of the Yugoslav amendment (E/CN.4/L.64/rev.2), the French amendment (E/CN.4/L.62), and paragraph 2 of the Yugoslav amendment.

Mr. BUCCO (Uruguay) asked for the two parts of the USSR amendment to be put to the vote separately.

The CHAIRMAN put to the vote the first part of the USSR amendment, namely the addition of the words "to social insurance and" after the words "the right of everyone".

The amendment was rejected by 3 votes to 9, with 5 abstentions.

The CHAIRMAN put to the vote the second part of the USSR amendment.

The amendment was rejected by 13 votes to 4, with 3 abstentions.

The CHAIRMAN called upon the Commission to vote on paragraph 1 of the Yugoslav amendment (E/CN.4/L.64/rev.2).

Mr. JUVIGNY (France) asked for a separate vote to be taken on the words "and his family".

The CHAIRMAN put to the vote the words "and his family".

The above words were adopted by 3 votes to none, with 15 abstentions.

The CHAIRMAN put paragraph 1 of the Yugoslav amendment to the vote as a whole.

Paragraph 1 of the Yugoslav amendment was rejected by 10 votes to 2, with 6 abstentions.

/The CHAIRMAN

The CHAIRMAN called upon the Commission to vote upon the French amendment (E/CN.4/L.69). He pointed out that the words "protection sociale" had been translated by the words "social welfare" in the English version, there being no absolute equivalent.

He put to the vote the French text of the French amendment.

The French amendment was rejected by 7 votes to 4, with 7 abstentions.

The CHAIRMAN called upon the Commission to vote upon paragraph 2 of the Yugoslav amendment.

Mr. JEVREKOVIC (Yugoslavia) pointed out that the word "them" in the first line of paragraph 2 would have to be replaced by the word "the" as a result of the rejection of paragraph 1. He asked for the vote to be taken by roll-call.

The CHAIRMAN put paragraph 2 of the Yugoslav amendment to the vote.
A vote was taken by roll-call.

In favour: Uruguay, Yugoslavia.

Against: Australia, Belgium, China, Egypt, France, Greece, India, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining: Chile, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Paragraph 2 of the Yugoslav amendment was rejected by 12 votes to 1, with 4 abstentions.

The CHAIRMAN put to the vote the text of article 22 of the draft covenant.

Article 22 was adopted by 14 votes to none, with 4 abstentions.

/s/ R. ROSE

Mr. HOWE (United Kingdom) said that he had voted against the first part of the UNCTAD amendment despite the fact that the change the UNCTAD representative had made in his original text (E/CN.4/L.47) had partly met the objectives of the United Kingdom delegation. Nevertheless it was still an attempt to define the idea of social security; furthermore, the expression "social insurance" had no such generally accepted meaning as would make it possible to use the expression in defining the idea of social security.

Mr. JUVIGLY (France) associated himself with the United Kingdom representative's remarks, adding that the idea of social insurance was so indisputably included in that of social security that there was no need to make any special reference to it in article 22.

The meeting rose at 3.30 p.m.