



GENERAL

E/CN.4/SR.294
27 May 1952ORIGINAL: ENGLISH
DOCUMENTS
INDEX UNIT **MASTER**

2 JUN 1952

COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND NINETY-FOURTH MEETING

Held at Headquarters, New York,
on Wednesday, 14 May 1952, at 2.30 p.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/1992; E/CN.4/635/Add.5, E/CN.4/L.48, E/CN.4/L.52, E/CN.4/L.57, E/CN.4/L.81/Rev.1, E/CN.4/L.83, E/CN.4/L.104, E/CN.4/L.105/Rev.1, E/CN.4/L.106/Rev.1, E/CN.4/L.107, E/CN.4/L.108) (continued) (article 30 continued)

<u>Chairman:</u>	Mr. MALIK	Lebanon
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. SANTA CRUZ)	Chile
	Mr. OYARZUN)	
	Mr. CHENG PAONAN	China
	AZMI Bey	Egypt

Members (continued):

Mr. JUVIGNY	France
Mr. KAPSAMBELIS	Greece
Mrs. MEHTA	India
Mr. AZKOUL	Lebanon
Mr. WAHEED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. RÜSSEL) Mr. WESTERBERG)	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MROZOV	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. JEVREMOVIC	Yugoslavia

Also present: Miss MANAS Commission on the Status of Women

Representatives of specialized agencies:

Mr. PICKFORD	International Labour Organisation (ILO)
Mr. McDOUGALL	Food and Agriculture Organization (FAO)
Mr. SABA	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

<u>Category A:</u> Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
Miss KAHN	World Federation of Trade Unions (WFTU)
<u>Category B and Register:</u>	
Mrs. VERGARA	Catholic International Union for Social Service
Mrs. SOUDAN	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
Mrs. WALSER	Women's International League for Peace and Freedom
Mrs. POLSTEIN) Mrs. FARBER)	World Union for Progressive Judaism
Mr. PINCE	World's Alliance of Young Men's Christian Associations

Secretariat: Mr. HUMPEREY
 Mr. DAS)
 Miss KITCHEN)

Representative of the Secretary-General
 Secretaries of the Commission

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.4/635/Add.5, E/CN.4/L.48, E/CN.4/L.52, E/CN.4/L.57,
 E/CN.4/L.81/Rev.1, E/CN.4/L.83, E/CN.4/L.104, E/CN.4/L.105/Rev.1,
 E/CN.4/L.106/Rev.1, E/CN.4/L.107, E/CN.4/L.108) (continued)

Article 30 (continued)

Mr. BCRATYNSKI (Poland) proposed, as an amendment to the United States text (E/CN.4/L.81/Rev.1), the replacement of paragraph 2 of that text by paragraph 1 of the original Polish amendment (E/CN.4/L.107) and the inclusion of a new paragraph 4 to read as follows:

"4. The States Parties to the Covenant undertake to ensure the development of science and education in the interests of progress and democracy and of the maintenance of peace and co-operation between peoples".

That text substantively restated the USSR amendment (E/CN.4/L.52) to the original article.

Mr. AZKOUL (Lebanon), speaking on a point of order, warned the Commission against the practice of restoring parts of original texts by moving them as amendments to amendments which constituted wholesale substitutions of new texts for those original texts.

The CHAIRMAN stated that that risk was run by any representative who proposed the wholesale substitution of a text. If the United States had submitted amendments to the parts of the original article, the restitution of parts of that article would not have been permissible.

Mr. HOARE (United Kingdom), speaking on a point of order, noted that the Commission had not had an opportunity to discuss the Yugoslav amendment (E/CN.4/L.108), which had been introduced just before the closure of the debate.

/The CHAIRMAN

The CHAIRMAN stated that the Yugoslav representative could introduce his amendment briefly and that one other representative could speak against it.

Mr. JEVREMOVIC (Yugoslavia) had nothing to add to his previous remarks on his amendment.

Mr. HOARE (United Kingdom) considered that, although the idea contained in the Yugoslav amendment had been referred to by some representatives as a possible mitigation of the USSR and Uruguayan texts, the concept of how science was to be applied was as liable to abuse as the original concept of the limitation of the development of science. Both those concepts were contrary to the general idea of the freedom of science and were open to the Yugoslav representative's own objections with regard to the possibility of abuse by dictators. He warned the Commission against adopting a provision so dangerous to the essential principles of freedom.

The CHAIRMAN put to the vote the French amendment (E/CN.4/L.104) to the United States amendment (E/CN.4/L.81/Rev.1).

The French amendment (E/CN.4/L.104) was rejected by 7 votes to 6, with 4 abstentions.

The CHAIRMAN put to the vote the first Polish amendment to the United States amendment, to replace paragraph 2 of the latter text by paragraph 1 of the original Polish amendment (E/CN.4/L.107).

The first Polish amendment was rejected by 10 votes to 6, with 1 abstention.

The CHAIRMAN put to the vote the second Polish amendment to the United States amendment, to add a new paragraph 4 to the latter text.

The second Polish amendment was rejected by 12 votes to 4, with 1 abstention.

/The CHAIRMAN

The CHAIRMAN put to the vote the United States amendment (E/CN.4/L.81/Rev.1) to the original article 30.

The United States amendment (E/CN.4/L.81/Rev.1) was adopted by 14 votes to none, with 3 abstentions.

The CHAIRMAN thanked the representative of UNESCO for his contribution to the Commission's work and asked him to transmit the Commission's thanks to the Director-General of his organization.

Mr. SABA (United Nations Educational, Scientific and Cultural Organization) thanked the Chairman for his tribute and said that he would transmit the Commission's thanks to the Director-General of UNESCO.

Article 23

Mr. CHENG PAONAN (China) introduced his amendment (E/CN.4/L.57) to article 23. It was obvious that food, clothing and housing were the three most important elements of everyday life; though housing might be more important and urgent for the populations of industrialized countries, the need for food and clothing came first in countries with a rural economy, and especially in under-developed countries. He therefore thought that a reference to food and clothing in article 23 would more clearly express the aspirations of the peoples of the world.

Mr. HOARE (United Kingdom) said that his reasons for moving his amendment (E/CN.4/L.83) were formal rather than substantive and hoped that he would not be brought to task for being less concerned than other representatives with the housing problem because he had proposed the deletion of the article. His grounds for doing so were to avoid duplication, since the right to adequate housing was implied in other articles, such as article 21 on conditions of work, article 24 on an adequate standard of living and article 25 on the highest standard of health obtainable; indeed, housing was referred to specifically in the latter article. The same duplication seemed to apply to the Chinese representative's proposal to include a reference to food and clothing, which was implicit in articles 21 and 24.

Mr. MOROZOV (Union of Soviet Socialist Republics) could not agree with the United Kingdom representative's arguments in favour of the deletion of article 23, since the organs which had dealt with the draft covenant had agreed that, in addition to general provisions, specific reference should also be made to the most important economic, social and cultural rights. The housing problem was generally regarded as most acute and it was therefore obvious that international co-operation should be directed towards ensuring the implementation of the right to housing. He introduced his amendment (E/CN.4/L.48), the purpose of which was to provide for the more realistic protection of the right to adequate housing.

Mr. WHITIAM (Australia) observed that, as the Secretariat had recalled in paragraph 124 of document E/CN.4/364/Rev.1, housing was recognized in the Universal Declaration as being one element making up a person's standard of living. The right to housing was thus implicit in article 24 on adequate standards of living. Moreover, specific reference to housing was contained in article 25. He doubted whether the housing problem was of sufficiently permanent importance to warrant its mention in a special article. Nevertheless, he would be guided by the Commission's opinion on the matter.

Mrs. VERGARA (Catholic International Union for Social Service) stated that her organization was especially interested in the formulation of economic, social and cultural rights with reference to the family. The covenant should contain explicit recognition of the fact that the economic, social and cultural rights of a human being were likewise his rights as a member of the family and she therefore welcomed the references to the family unit in article 21 and in the French amendment to article 26.

The family unit was especially concerned with the serious social, economic and moral consequences of the lack of adequate housing. According to the United Nations Preliminary Report on the World Social Situation, 150 million families in under-developed countries and 30 million families in industrially developed countries required more adequate housing.

/In recognizing

In recognizing these rights, the State could not assume the responsibilities of the family, but could create conditions in which the family could fulfil its duties and enjoy its rights as the best and most natural environment for the most advantageous development of the individual.

Mrs. ROOSEVELT (United States of America) was in favour of retaining article 23, since housing was an essential element of standards of living. She could not support the USSR amendment (E/CN.4/L.48), because the obligations it imposed on States were already provided for in article 1 of the covenant. Emphasis on legislation in respect of housing would render the article unacceptable to countries such as her own, where private enterprise was employed on many construction projects, although considerable government assistance had also been provided.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) could not agree that article 23 should be deleted, especially since the United Kingdom representative had based his arguments on the assertion that housing was implicitly referred to in other articles. The Commission had not yet dealt with articles 24 and 25, and it was possible that those texts might be substantially amended. In view of the importance of the right to adequate housing, it would be preferable to adopt article 23 and, if necessary, delete the reference to housing from article 25.

He would vote for the USSR amendment (E/CN.4/L.48), since the proposed amplification did not refer to the obligations of States, but to the minimum requirements in that connexion. The United States objection to the emphasis on legislation was unfounded, since legislation was essential in many countries for the provision of various elements of housing.

Mr. BORATYNSKI (Poland) said that the article was a good one, so far as it went, but it would hardly be welcomed by a slum dweller. It was all very well for the State to recognize the right to adequate housing, but it must be bound to go further and take practical steps to provide that housing. Under the covenant only the State could assume such obligations, because it was a treaty to which States, not individuals, would be parties. The USSR amendment (E/CN.4/L.48) supplied an essential complement. Its wording was very broad; the phrase "all necessary measures" did not imply only the building of houses

/but such

but such measures as subsidies, tax exemptions, loans and the provision of the requisite materials on favourable terms. He could not agree that no specific obligation was required because article 1, paragraph 1 covered article 23.

Mrs. MEHTA (India) could not agree with the United Kingdom representative that the right to housing was implicitly stated in articles 21, 24 and 25. In article 25 housing was included only as one of the measures to protect health, not as a specific right. Food, clothing and shelter being among the primary needs of man, adequate housing was one of the fundamental rights. She did not agree with the Polish representative's contention that the slum dweller would obtain no satisfaction, because article 1 stated that each State Party undertook to take steps, so that something would in fact be done, although the right would not have to be fully enforced immediately. She would therefore support the original text.

Mr. SANTA CRUZ (Chile) opposed the United Kingdom proposal that the article should be deleted. The right to adequate housing was one of the most important rights, especially for the working class. The General Assembly at its sixth session had expressly recognized that fact in resolution 537 (VI), in which it had requested the Economic and Social Council, inter alia, to give urgent attention to practical measures to assist governments in increasing available housing facilities. The preamble, adopted unanimously, had laid stress on the evils likely to result from the shortage of housing. He would therefore support the USSR amendment (E/CN.4/L.48), because if there was any instance in which the State must take immediate action, it was in connexion with adequate housing. Article 1 was inadequate in that particular case, since the State should begin to take steps immediately. The United States representative's criticism was inappropriate, because under article 1 there was no guarantee of the right, merely a statement that necessary steps should be taken. That representative had gone on to argue that the State's role should not be over-emphasized; but housing was a field in which the State and the community had a special responsibility to solve a problem affecting physical and moral welfare, particularly in the under-developed countries. General Assembly resolution 537 (VI) contained a number of suggestions for practical measures to be taken by organs of the United Nations, including regional bodies, by specialized
/agencies

agencies and by non-governmental organizations. The USSR amendment in no way stipulated that the governments must themselves undertake to build houses -- although, in practice, many governments did so -- but merely that they must supply such assistance as that outlined in the Assembly resolution and by the Polish representative. The circumstances warranted the inclusion of a specific obligation in that particular article.

Mr. BRACCO (Uruguay) said that his delegation believed that article 23, like all the other articles, should embody a guarantee that the State would be responsible for ensuring the enjoyment of the right, either by legislation or by other measures. That had been done for many years in his country with regard to housing. He would support the USSR amendment. True, the phrase "a dwelling consistent with human dignity" was somewhat vague; but "adequate housing" in the original text was also not very precise. Either phrase, however, expressed in general terms what his delegation would wish to see in the article.

Mr. JUVIGNY (France) said that it could be argued ad infinitum whether housing was or was not included in the notion of a decent living or an adequate standard of living mentioned in articles 21 and 24. Whether it was or not might well depend on conditions which varied from country to country, such as the demographic pressure and the supply of materials available. It would be wiser, therefore, to state the right in a separate article. He agreed with the United States representative that article 1 covered article 23, and he could see no reason for the addition of a specific obligation such as that proposed by the USSR delegation. A specific obligation would destroy the whole balance of the covenant, because it would imply that a State Party would not be able to decide for itself to which rights it should give priority within its available resources, but would have to devote all its resources immediately to the provision of adequate housing. Furthermore, the emphasis ought not to be placed solely on the responsibility of the State, since that would exclude the responsibility of communities and of private enterprise.

/Mr. HOARE

Mr. HOARE (United Kingdom) acknowledged the difficulty of trying to take into account an article not yet under discussion at a time when the Commission was examining only article 23. He still thought that the right to adequate housing was implicit in the wording of article 24, but, to meet the Ukrainian representative's objection, he would be quite prepared to accept the insertion of the words "including an adequate standard of housing" after the word "living" in article 24. That would also dispel the French representative's doubts whether housing was really implied in the phrase "adequate standard of living". The Indian representative had been quite correct in saying that adequate housing was not stated as a right, but merely as a measure, in article 25. She had not however dealt with his argument based on article 24.

The Chinese amendment (E/CN.4/L.57) gave rise to a difficulty in logic. If housing was included in the concept of a standard of living, food would also be included; but if housing was not included, the Chinese amendment would logically have to be accepted. Yet, for a number of other reasons, he did not want to accept it. The disadvantage of the USSR amendment (E/CN.4/L.48) was that, by stating a specific obligation rather than by leaving the article to be governed by article 1, it meant that the necessary measures to ensure adequate housing would have to be taken before ratification, since the article would come into force immediately afterwards. Yet, most countries in existing circumstances could not possibly fulfil that condition. That was why it was wiser that the limitations in article 1 should apply. He did not contest the importance of legislation, but, as his own country's experience showed, it was possible to have all the requisite legislation on the statute books, but still lack adequate housing, owing to the shortage of labour and materials. He agreed with the Uruguayan representative that the term "adequate housing" was vague, but it was at least broader than "a dwelling consistent with human dignity".

Mr. WAHNEED (Pakistan) said that the Pakistani delegation had voted for the original text of article 23 at the previous session, but had come to the conclusion that it was redundant, in view of the Australian representative's reference to the part played by the specialized agencies and of the United Kingdom representative's arguments about article 24. He would, however, not vote against

article 23, because he appreciated the need to state the right specifically and wished it to be in the covenant, but he welcomed the United Kingdom representative's suggestion of an insertion in article 24. He was not in favour of the USSR amendment, because article 1 provided the necessary safeguards against an obligation to enforce the right immediately, an obligation which his country could not undertake.

Mr. AZKOUJ (Lebanon) argued that articles 20, 21 and 22 covered the basic needs of the individual and article 23 completed them. The right to adequate housing differed somewhat from the right to work, to decent conditions of work and to assistance when unable to work, because housing did not depend so much on the effort of individuals as on effort by the community; a man might be able to afford adequate housing but be unable to find it. Thus, a specific mention of that right was necessary. Furthermore, the statement of that right should be retained in a separate article rather than be included in article 24, because articles 20, 21, 22 and 23 would be a self-contained whole, covering life, clothing and housing, and article 24 would then cover all those other needs, the satisfaction of which went to make up an adequate standard of living. If the right to housing was included in article 24, it would limit its scope to the minimum immediate needs.

He could not accept the USSR amendment. True, a reference to specific measures might be warranted in some articles, such as article 20, but that amendment did not specify a particular obligation or a direct immediate obligation which should not be subject to the limitations in article 1. To include it might give the impression that the State would not be bound by article 1 in that instance. Furthermore, its inclusion would give rise to the objection stated by the French representative: it would compel States to give priority to adequate housing. Unless, too, article 23 was subject to article 1, States would have to undertake to provide adequate housing immediately, which they certainly could not. Article 1 used the word "progressively", which might seem to permit too great a delay, but his delegation interpreted that word to mean more and more fully--an interpretation with which, admittedly, some delegations did not agree. Thus, if article 23 was linked with article 1, it would mean that adequate housing would be supplied immediately in so far as the available

resources permitted. The phrase "a dwelling consistent with human dignity" was certainly narrower than the phrase "adequate housing", as the former implied only a dwelling just better than that fit for a beast.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that pleading a cause too hard defeated its own purpose; he therefore merely thanked delegations which had supported the USSR amendment (E/CN.4/L.48) and hoped that the Commission would accept it.

Mr. CHENG PAOMAN (China) recalled that the FAO had expressed the opinion (E/CN.4/655/Add.3) that the covenant did not adequately protect the rights of cultivators, while at the same time expressing some doubt whether provisions to safeguard those rights could be effectively included in the covenant as it stood. The Chinese amendment (E/CN.4/L.57) would go at least part of the way towards protecting those rights. If article 23 were eliminated altogether, he would be satisfied that food and clothing were subsumed under the "adequate standard of living" mentioned in article 24. If, however, article 23 were maintained, its specific reference to adequate housing could be understood only as a partial definition of an adequate standard of living, and the words "food, clothing and" before "adequate housing" must be inserted to complete that definition. In many parts of the world, there was shortage of food and clothing, which were essential for survival, let alone an adequate standard of living. He had phrased his amendment in the simplest possible terms, so that it would be acceptable to everyone, and he was rather surprised that representatives of under-developed countries, which were in the main agricultural and in which the problem of food and clothing was particularly acute, had failed to support his amendment. If article 23 were maintained the Commission, in all logic, could not refuse to include in it a mention of those two essentials.

The CHAIRMAN stated that there were three amendments to article 23: the USSR amendment (E/CN.4/L.48), the Chinese amendment (E/CN.4/L.57) and the United Kingdom amendment (E/CN.4/L.83). As the United Kingdom text proposed the deletion of the whole article, it could not properly be regarded as an amendment, for two reasons:

/1. Voting

1. Voting on the deletion of an entire proposal was unfair because it allowed the member who had moved deletion to vote on his motion twice: once in favour of deletion, and a second time against the proposal as a whole; and

2. While the rules of procedure gave no definite guidance with regard to total deletion, rule 60 stated: "A motion is considered an amendment to a proposal if it adds to, deletes from or revises that proposal", and as deletion of an entire text was certainly not the same as deletion from a text, it was not an amendment.

He therefore ruled that the United Kingdom proposal, as contained in document E/CN.4/L.83, to delete article 23 was out of order as an amendment to that article and could not be put to the vote as such.

Mr. HOARE (United Kingdom) thought that, on the contrary, a double vote on article 23 was desirable, since the vote on the deletion would serve to test the Commission's view on whether or not there was duplication between article 23 and article 24, which should be strengthened. Members could have voted for deletion to indicate that there was such duplication, and could then have voted for the article at the end. Under the Chairman's ruling, he himself would have no option but to vote against the article, in order to be consistent with his amendment; he would otherwise have voted for deletion and abstained in the vote on the article. The Chairman's ruling, therefore, did not provide the best way possible to ascertain the true view of the Commission on the United Kingdom amendment.

The CHAIRMAN pointed out that the United Kingdom had submitted no formal amendment to reinforce or clarify article 24. Secondly, the decision with regard to what was the fairest procedure was in such cases left to the Chairman whose ruling could, of course, be challenged. Lastly, the United Kingdom had not answered the argument based on the rules of procedure.

Mr. SANTA CRUZ (Chile) agreed that the Chairman's ruling would be entirely proper in the case of independent proposals such as resolutions. Article 23 was, however, part of a larger whole -- the covenant on economic, social and cultural rights -- and it was only to facilitate debate that the Commission treated each article as an independent text. He therefore thought that the United Kingdom amendment was in order, since it proposed the deletion of one small part of the covenant.

AZMI Bey (Egypt) agreed with the Chilean representative. The General Assembly, in its resolution 544 (VI), had instructed the Commission to revise the covenant; revision quite obviously meant that new articles could be introduced and existing articles could be eliminated. It might be best to postpone discussion of the important procedural point involved in order to allow the Chairman time for further consideration.

The CHAIRMAN maintained his ruling that document E/CN.4/L.83, which the United Kingdom delegation itself had entitled "draft amendment to article 23" was out of order as an amendment to that article.

Mr. HOARE (United Kingdom) remarked that in that case his introduction of the amendment and the whole debate on it had been equally out of order, and there was no possibility of ever moving the deletion of an article. Furthermore, on a previous occasion the Chairman had based his decision not on the title, but on the nature of a document. The same procedure should be followed in the present case.

Mr. NISOT (Belgium) said that, if document E/CN.4/L.83 was out of order as an amendment, it was surely in order as an independent proposal: the proposal to delete article 23, and could be put to the vote as such.

The CHAIRMAN replied that the Belgian representative had raised a very subtle point, which he would like to ponder, although he believed that the Legal Department, whom he had consulted, would not agree with the Belgian representative.

Mr. BRACCO (Uruguay) entirely agreed with the Chairman's ruling, and would vote for it; in order to end the procedural discussion, however, he challenged that ruling.

AZMI Bey (Egypt) pointed out that the whole matter required more thought; he therefore moved the adjournment of the meeting.

The motion for adjournment was adopted by 10 votes to 4, with 4 abstentions.

The meeting rose at 5.40 p.m.