

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



GENERAL  
E/CH.4/GR.313  
10 June 1952  
ARABIC  
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THREE HUNDRED AND THIRTEENTH MEETING

Held at Headquarters, New York  
on Wednesday, 2. May 1952, at 10.45 a.m.

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<u>Chairman:</u>	Mr. MAJIK	Lebanon
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. HIGOT	Belgium
	Mr. VALDEMARCA	Chile
	Mr. CHEUNG FACHAN	China
	ASHA Bey	Egypt
	Mr. CASSIN	France

Members (continued):

Mr. DAPSAMBELIS	Greece
Mrs. MEEDA	India
Mr. WAHEED	Pakistan
Mr. BCRATYNSKI	Poland
Mrs. ROGSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MIROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. SEBARIAN	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representative of a specialized agency:

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

Category A:

Mr. LEARY	International Confederation of Free Trade Unions (ICTU)
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Category B and Register:

Mrs. de BROECK	Catholic International Union for Social Service
Mr. MOUNWITZ	Consultative Council of Jewish Organizations
Mrs. PARSONS	International Council of Women
Miss JARTLAN	International Union of Catholic Women's Leagues
Mrs. PARSONS	Liaison Committee of Women's International Organizations
Mr. JACOBY Mr. HAYES )	World Jewish Congress
Mr. PRINCE	World's Alliance of Young Men's Christian Associations
Mrs. POLSTEIN	World Union for Progressive Judaism

Secretariat:

Mr. HURTHY	Director, Division of Human Rights
Mr. D/S Miss KITCHEN )	Secretaries of the Commission

/PRCLOSATION

#### PROLONGATION OF COMMISSION'S SESSION

The CHAIRMAN called upon the Commission to consider the advisability of requesting the Economic and Social Council to extend the eighth session of the Commission for two weeks. He did not see how the Commission could finish its work by 6 June: if necessary it could complete the drafting of the two covenants but it would be impossible to devote to the covenant on civil and political rights as much time and care as it had given to the covenant on economic, social and cultural rights. The Commission would then have to consider measures of implementation, the federal clause and the other items on its agenda (E/CN.4/642). He therefore recommended that the Commission should request the Economic and Social Council to extend the session until 20 June. He reminded the Commission that the Council, in its decision that the present session should last eight weeks, had provided for the possibility of a request for extension.

Mr. WAHED (Pakistan) wished to co-operate fully in advancing the work on the covenants but noted that the Chairman's proposal raised serious difficulties. On the basis of the programme of work drawn up by the Chairman, a number of delegations had been led to believe that the Commission would not meet beyond 6 June. Even if an extension of two weeks were granted, the Commission could hardly complete its drafting of the covenant. It seemed inadvisable to limit the discussion on the extremely important questions involved in the articles of the covenant on civil and political rights and, consequently, there was little hope that the Commission could progress more quickly than it had in the past.

The delegation of Pakistan would therefore not support the Chairman's recommendation. Nevertheless it proposed that morning and afternoon meetings should begin earlier and end later.

Mr. BRACCO (Uruguay) said that his delegation was opposed in principle to an extension of the session. It wished however to take into consideration the Chairman's comments and the fact that it would not be possible to consider the other items on the agenda before 6 June. His delegation was therefore prepared

/to support

to support the Pakistani proposal to have meetings extended beyond the normal hours. If that measure was not adequate, Uruguay would submit an amendment requesting the Economic and Social Council to authorize the Commission to continue its work until it had completed the consideration of the covenant on civil and political rights.

Mr. MEROZOV (Union of Soviet Socialist Republics) did not share the pessimism of the representative of Pakistan. By increasing its hours of work, the Commission could draft the covenant on civil and political rights before 6 June. The Commission was engaged in its fourth reading of that covenant and the debate could be shortened because there were practically no new elements to be considered. The Commission would then have to take up measures of implementation and would thus have done useful work in a relatively brief period of time.

He noted that recently a number of delegations had expressed their preference for a single covenant. The debate in the Commission had emphasized the merits of that thesis. It was therefore not impossible to hope that the General Assembly would reverse its decision if the Commission submitted a recommendation to that effect to the Economic and Social Council. In that case it would be illogical and perhaps even useless to devote two or three weeks to the discussion of measures of implementation and other related questions which could be considered from a totally different angle depending on whether there was to be a single covenant or two covenants.

The USSR delegation therefore deemed it preferable to extend the hours of work. Referring to the Uruguayan proposal, he commented that it would give too much latitude to the Commission which could then sit indefinitely. As for the remaining items on the agenda, three additional weeks would not be enough time to consider them.

Mr. CHENG PAONAN (China) pointed out that a majority of delegations wished to complete the essential part of the Commission's work within the prescribed period of time. He proposed that morning and afternoon meetings should begin earlier and end later, that the Commission should hold night meetings and that interventions and replies should be limited to five and two minutes respectively.

/Mr. VALENZUELA

Mr. VALENZUELA (Chile) noted that in considering the work of the seventh session of the Commission on Human Rights, the Third Committee of the General Assembly had recognized that the work had not been completed because of lack of time. The General Assembly had then decided that the Economic and Social Council could grant the Commission more time if that was deemed necessary. It would of course be difficult for the Commission to impose on all members an extension of the session decided upon by a majority vote. He wondered if the Commission could by a unanimous decision request an extension of only one week from the Economic and Social Council. In addition the Commission could adopt the Pakistani proposal extending its hours of work, taking into consideration the financial implication of that proposal.

Mrs. MEHTA (India) was not opposed to a one-week extension of the session, though it would be difficult for the Commission to complete its work even with that extension. It would have to try to complete its consideration of the eighteen articles of the covenant on civil and political rights during the week ending 6 June. During the following week it could consider some other important items on its agenda such as the establishment of priorities and the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Commission could not at its eighth session hope to expedite consideration of measures of implementation without which the covenant would be incomplete.

Mr. CASBARI (France) favoured a prolongation of not more than one week. Consideration of the agenda items mentioned by the Indian representative was essential, and he thought that the Commission should also examine the items relating to the Yearbook on Human Rights and to the annual reports on human rights.

The CHAIRMAN asked the representatives who objected to a prolongation of the session whether they would accept the compromise solution proposed by the Chilean representative to the effect that the Economic and Social Council should be requested to prolong the session for not more than a week.

Mr. VAHED

Mr. WAILED (Pakistan) and Mr. MEROZOV (Union of Soviet Socialist Republics) said that their delegations would abstain from voting on the Chilean proposal.

AZHI Bey (Egypt) said that he had intended to abstain from the vote as a protest against the decision of the Interim Committee on Programme of Conferences which had included more items in the Commission's agenda than the latter could deal with in the prescribed time limit. For the Commission to carry out its task successfully two sessions a year were necessary. He had also wished thereby to mark his disapproval of the attitude of some members of the Commission who, too often losing sight of the technical nature of their work, brought political matters into the debate. However, as the Chilean representative had urged unanimous adoption of his proposal, the Egyptian delegation would vote in favour of it, and he requested the representatives of Pakistan and the USSR to reconsider their decision to abstain. Moreover, a stricter time limit should be imposed on statements than had been suggested by the Chilean representative. Ten minutes might be allotted to a representative proposing an amendment and five minutes to other speakers, each representative to take the floor not more than once.

Mr. HUMPHREY (Secretariat) pointed out that the Secretariat had now more work on its hands than during the General Assembly sessions and that meetings could not therefore be held at night or on Saturdays. Moreover, the General Assembly had not appropriated supplementary funds for that purpose. The Commission's afternoon meetings might, however, last until 6 or 6.30 p.m. and there was no objection to prolonging the session for two weeks.

Mr. KAPSAMBELIS (Greece) observed that his delegation, by the brevity of its statements, had consistently helped to expedite the Commission's work. He would abstain from voting on the proposal to prolong the session for one week.

Mr. WHITLAM

Mr. WHITLAM (Australia) felt that delegations should indicate whether they could remain if the Commission extended its session for one week.

Mr. WAHEED (Pakistan) said that he would not object to any decision taken as a body by members of the Commission. His delegation could remain if the Commission decided to extend its session beyond the original time-limit.

Mr. KAPSAMBELIS (Greece) said that his delegation would also remain if the Commission decided to prolong its session.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) said that his delegation would be placed in a very difficult position if the Commission decided to prolong its session. The Chairman might ascertain whether the Commission wished to meet beyond 6 June.

The CHAIRMAN felt that the proposal served no useful purpose since that solution would necessarily follow from a rejection of the proposals to prolong the session.

Mr. MOROZOV (Union of Soviet Socialist Republics) and Mr. BORATYNSKI (Poland) said that their delegations would be placed in a difficult position if the Commission decided to prolong its session.

Mr. BRACCO (Uruguay) felt that the Commission could complete consideration of the covenant respecting civil and political rights before 6 June. Under rule 45 of the rules of procedure, he proposed adjournment of the debate until 2.30 p.m. on 4 June.

Mrs. MEETA (India) objected to the Uruguayan proposal and pressed for a decision by the Commission at its present meeting as to a possible prolongation of its session.

The motion to adjourn submitted by the Uruguayan representative was rejected by 12 votes to 4, with 2 abstentions.

Mr. NISOT (Belgium) formally proposed that the Commission should decide whether or not it wished to prolong its session.

/Mr. KOVALENKO

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) supported the Belgian representative's proposal.

The CHAIRMAN put to the vote the question whether the Commission wished to extend its session beyond 6 June.

The proposal was rejected by 8 votes to 7, with 3 abstentions.

The CHAIRMAN proposed that the Commission should hold its morning meetings from 10 a.m. to 1 p.m.

It was so decided.

The CHAIRMAN proposed that as from Monday, 2 June 1952, the Commission should hold its afternoon meetings from 2.30 p.m. to 6.30 p.m.

Mr. WHITLAM (Australia) felt that the afternoon meetings should end in principle at 6 p.m.

It was so decided.

The CHAIRMAN recalled that the Egyptian representative had proposed that statements should be restricted to ten minutes for representatives proposing amendments and to five minutes for other speakers, each representative taking the floor once only.

Mr. MEROZOV (Union of Soviet Socialist Republics) proposed that a representative's first statement should be restricted to ten minutes and subsequent ones to five, with no limit to the number of statements allowed each representative.

The proposal was adopted.

The CHAIRMAN pointed out that the decision was effective immediately and that he would submit a plan of work for the Commission's approval at the beginning of the afternoon meeting.



DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION  
(E/1992; E/CN.4/528, E/CN.4/528/Add.1, E/CN.4/642; E/CN.4/L.166, E/CN.4/L.137,  
E/CN.4/L.151, E/CN.4/L.158/Rev.1) (continued)

Article 5 (continued)

The CHAIRMAN read out the French text of article 5, paragraph 3(c)(i) as drafted by the Secretariat.

Mrs. MEHTA (India) preferred the original wording of article 5 but wished to make it clear that in paragraph 3(c)(i) in the English text she understood the words "in consequence of a lawful order of a court" to apply to "detention".

Mr. CASSIN (France) pointed out that the French amendment (E/CN.4/L.158/Rev.1) confined itself to replacing in paragraph 3(c)(i) the expression "other than work performed in pursuance of a sentence of 'hard labour'", which was already covered by paragraph (b), with the word "normally" in order to bring out the fact that the reference was to work ordinarily done by prisoners and not to hard labour. The French amendment to paragraph 3(c)(i) avoided any discussion of service of a military character.

Mr. VALENZUELA (Chile) said that his delegation favoured the present text of article 5. However, he had some doubts about the expression "hard labour" when used between quotation marks because it gave the impression that some special punishment was meant. That was true only in some countries. He proposed a separate vote on deletion of the quotation marks.

The CHAIRMAN, speaking as the representative of Lebanon, said that he would vote for the French amendment (E/CN.4/L.158/Rev.1) to paragraph 3(c)(i) because the insertion of the word "normally" seemed necessary in order to limit the powers of prison authorities. The proposal relating to paragraph 3(c)(ii) made no substantial change in the existing text but his delegation would accept it.

Mr. BOARE (United Kingdom) did not altogether agree entirely with the representative of Lebanon. It must be made clear that the work required of a person under detention did not come under the heading of forced or compulsory labour, but in view of the fact that "hard labour" was dealt with in paragraph 3(b),  
/it should

it should be shown clearly that paragraph 3(c)(1) referred to any other labour performed by a person under detention. The word "normally" was useless and restrictive. In some special circumstances prison authorities might decide to give persons under detention work that was different from their customary labour. Should the word "normally" be adopted, no such decision could be taken, even if the work intended was not arduous, because it would no longer be normal work. He wondered whether the French representative could not accept the Secretariat's French translation as it stood.

He disagreed with the representative of Chile and felt that it was better to keep the expression "hard labour" in quotation marks because it referred to a special kind of punishment. The quotation marks would help to avoid any difficulty in interpretation on account of the similarity of that expression with "forced labour".

He understood perfectly the French representative's objection to paragraph 3(c)(11) but he wondered whether the legal scope of the expression "in virtue of laws requiring compulsory national service or compulsory military service" would not be sufficiently wide in France to allow for the idea of conscientious objection. He himself felt that the idea of compulsory military service was included in that of compulsory national service.

Mr. SMITH (United States of America) agreed with the remarks of the Indian representative. He also supported the view of the United Kingdom representative with respect to paragraph 3(c)(1). He would support the French amendment to paragraph 3(c)(11) (E/CH.4/L.158/Rev.1), which aimed only at improving the wording of that paragraph without changing the substance.

Mr. CASSIN (France) observed first that members of the Commission were now in agreement in considering paragraph 3(c)(1) as not referring to hard labour. Secondly, to avoid any possibility of misunderstanding in the French amendment to that paragraph (E/CH.4/L.158/Rev.1) he was prepared to make it clear that it referred to work or service normally required "of a person under detention" in consequence of a lawful order of a court. Finally, the word "normally" could be put to the vote separately so as to allow for the objection raised by the United Kingdom representative.

/He was

He was glad to note that the representatives of Lebanon and the United States felt that the wording of paragraph 3(c)(1) proposed by France constituted an improvement even in the English text. He hoped that the United Kingdom representative would reconsider that wording and find himself in agreement.

Mr. MOROZOV (Union of Soviet Socialist Republics) recalled that he had been prepared to vote in favour of the French amendment (E/CN.4/L.158/Rev.1). However, the discussion which had just taken place showed that the meaning of that amendment was not as clear as that of the original. He felt that the best solution would be to retain the original text, deleting the quotation marks around "hard labour"; he would vote accordingly.

Mr. EGARE (United Kingdom) thought that if the words "other than work performed in pursuance of a sentence of 'hard labour'" were deleted in paragraph 3(c)(1) the latter would be repeating what was stated in paragraph 3(b). He also felt that the English wording of the French delegation's amendment to paragraph 3(c)(1) was not satisfactory because it might imply that a special law providing for special work for conscientious objectors would have to be adopted.

Mr. NISOT (Belgium) favoured the change in wording which the French representative had suggested for paragraph 3(c)(1).

The CHAIRMAN, speaking as the representative of Lebanon, said that the word "normally" seemed very important to him because it deprived prison authorities of the possibility of taking arbitrary decisions with regard to the work which might be required of persons under detention. He proposed that, should the French amendment not be adopted, the word should be inserted in the original text of article 5.

/s/ M. EDVALENKO

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) said that his delegation would vote to retain the original wording of article 5 for the reasons already cited by the representative of the USSR. He pointed out, moreover, that in the Russian text of paragraph 3(c)(1) the words "za isklyucheniye" (except for) should be replaced by the word "pozimo" (other than).

The CHAIRMAN asked the Commission to vote on the question of deleting the quotation marks around the words "hard labour" in paragraphs 3(b) and 3(c)(1). The quotation marks were deleted by 8 votes to 6, with 4 abstentions.

To meet the objections of the United Kingdom representative, Mr. CASSIN (France) suggested the insertion of the words "not covered by paragraph (b)" after the word "service" in the French amendment to paragraph 3(c)(1) (E/CN.4/L.158/Rev.1)

The French amendment to paragraph 3(c)(1), as modified, was adopted by 9 votes to 7, with 2 abstentions.

The French amendment to paragraph 3(c)(1) was adopted by 11 votes to 3, with 4 abstentions.

Paragraph 3(c)(iv) of article 5 was adopted by 13 votes to 3, with 1 abstention.

Article 5 as a whole was unanimously adopted as amended.

#### Article 6

Mrs. MEHTA (India) called attention to the amendment submitted by her delegation (E/1992, annex III, section A) to add after the words "at the time of arrest" in paragraph 3 the words "or as soon as may be". It was generally impossible to inform a person at the exact moment of his arrest of the reasons therefor. The Indian delegation was also presenting an amendment to paragraph 4 to insert the words "in cases which are feasible" after the words "pending trial" (E/1992, annex III, section A). The purpose of that amendment was to allow for certain special cases; for example, in many countries, including India, release on bail might not be granted to persons charged with murder.

/Mr. SIMFARIAN

Mr. SIMSARIAN (United States of America) said that the United States amendment (E/CN.4/L.131) modified paragraph 6 which, as it stood, prejudged the question of liability of authorities if they ordered an arrest which was illegal. The important thing was to grant the victims of such an arrest the right to bring an action for compensation.

Mr. HOARE (United Kingdom) pointed out that his amendment (E/CN.4/L.137) to paragraphs 1 and 2 was intended to meet the objection that had been raised to the use of the word "arbitrary". The Commission's discussion at its sixth session showed that the word could give rise to different interpretations and that there was no agreement on those interpretations in the Commission. The expression "arbitrary arrest or detention" might mean arrest or detention that was unlawful or arrest or detention which, whether or not unlawful, was "unjust", or arrest or detention which was both unlawful and "unjust". It was therefore an ambiguous expression and the Commission would be avoiding its responsibility if it retained it and left it to the Human Rights Committee to define the word "arbitrary". The United Kingdom amendment set out the categories of cases under all legal systems in which a person might be deprived of his freedom.

The amendment to paragraph 4 met the same point as the Indian amendment (E/1992, annex III, section 4) and eliminated the ambiguity of the original wording.

The meeting rose at 1.15 p.m.