

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



E/CN.4/SR.326
23 June 1952
ORIGINAL:
ENGLISH/FRENCH

COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THREE HUNDRED AND TWENTY-SIXTH MEETING

Held at Headquarters, New York,
on Friday, 6 June 1952, at 4.30 p.m.

CONTENTS:

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/L.166; E/CN.4/L.127, E/CN.4/L.146, E/CN.4/L.147,
E/CN.4/L.157, E/CN.4/L.202, E/CN.4/L.203, E/CN.4/L.204) (continued)

<u>Chairman:</u>	Mr. CASSIN	France
<u>Rapporteur:</u>	Mr. WEITLAK	Australia
<u>Members:</u>	Mr. NISOT	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France

Members (continued):

Mr. KAPSAMBELIS	Greece
Mrs. MEHTA	India
Mr. BORATYNSKI	Poland
Mrs. RÖSSEL	Sweden
Mr. KOVALZUKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	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: Mrs. MARAS Commission on the Status of Women

Representatives of non-governmental organizations:

<u>Category A:</u>	Mr. THORMANN	International Federation of Christian Trade Unions (IFCTU)
<u>Category B</u> <u>and Registrar:</u>	Mrs. DE BROECK	Catholic International Union for Social Service
	Mr. MOGKOWITZ	Consultative Council of Jewish Organizations
	Mrs. JOUDAN	International Federation of Business and Professional Women
	Miss SCHAEFER	International Union of Catholic Women's Leagues
	Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
	Mrs. WALSER	Women's International League for Peace and Freedom
	Mr. JACOBY	World Jewish Congress
	Mr. PENCE	World Alliance of Young Men's Christian Association

Secretariat:

Mr. SCHWELB	Division of Human Rights
Mr. DAS Miss KITCHEN }	Secretaries of the Commission

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/L.126, E/CN.4/L.127, E/CN.4/L.146,
E/CN.4/L.147, E/CN.4/L.157, E/CN.4/L.202, E/CN.4/L.203, E/CN.4/L.204 (continued))

Article 16 (continued)

Mrs. ROOSEVELT (United States of America) asked that her delegation's amendment (E/CN.4/L.203) should be voted on in parts, the first vote being taken on the words "the right of association shall be recognized" and the second vote on the words "including the right to form and join trade unions".

Mr. BRACCO (Uruguay) asked that the United Kingdom amendment to paragraph 1 (E/CN.4/L.146) should be put to the vote in parts in the same way as the United States sub-amendment.

Mr. SANTA CRUZ (Chile) pointed out that if the vote were taken in parts as the United States representative had requested, the Commission would vote first on paragraph 1 of the original text of article 16. It would therefore be preferable not to have such a division.

Mrs. ROOSEVELT (United States of America) did not insist on that point.

Mr. BRACCO (Uruguay), on behalf of his delegation, reiterated the request for a vote in parts.

Mr. HOARE (United Kingdom) proposed to submit the words "for the protection of his interests" in his delegation's amendment (E/CN.4/L.146) as a sub-amendment to the United States text.

Mr. MOROZOV (Union of Soviet Socialist Republics) objected to the request on the same grounds as the Chilean representative.

/The CHAIRMAN

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The CHAIRMAN stated that there was some contradiction between rule 59 of the rules of procedure, under which the division of a proposal was in order if requested, and the practice of not putting an original text to the vote first because amendments might thus be disregarded. He thought that since rule 59 was a written text it ought to be observed, and asked the Commission to decide on the matter.

Mr. SANTA CRUZ (Chile) withdrew his objection in order to save time.

Mr. BRACCO (Uruguay) withdrew his request for a vote in parts on the United States sub-amendment.

Mr. HOARE (United Kingdom) withdrew his sub-amendment to the United States text.

The CHAIRMAN put to the vote the United States amendment (E/CN.4/L.203) to the United Kingdom amendment (E/CN.4/L.146) to paragraph 1 of article 16.

The United States sub-amendment was rejected by 9 votes to 5, with 2 abstentions.

Mr. BRACCO (Uruguay) recalled that he had asked for a separate vote on the end of the United Kingdom amendment to paragraph 1, from the words "including the right".

Mr. NISOT (Belgium) asked for a separate vote on the words "for the protection of his interests" at the end of the paragraph 1 proposed by the United Kingdom.

The CHAIRMAN put to the vote the first part of the United Kingdom amendment to paragraph 1, consisting of the words "Everyone shall have the right to freedom of association with others".

Those words were adopted by 12 votes to 1, with 4 abstentions.

/The CHAIRMAN

The CHAIRMAN put to the vote the second part of the United Kingdom amendment to paragraph 1, consisting of the words "including the right to form and join trade unions".

Mr. BRACCO (Uruguay) pointed out that those words appeared in the United States sub-amendment that had been rejected.

The CHAIRMAN recalled that the Commission had decided formally that, if the United States sub-amendment were rejected, the United Kingdom amendment to paragraph 1 would be put to the vote as a whole.

The second part of the United Kingdom amendment to paragraph 1 was adopted by 11 votes to 3, with 2 abstentions.

The CHAIRMAN put to the vote the third part of the United Kingdom amendment to paragraph 1, consisting of the words "for the protection of his interests".

Those words were adopted by 8 votes to 1, with 6 abstentions.

The United Kingdom amendment to paragraph 1 as a whole was adopted by 8 votes to 3, with 5 abstentions.

The CHAIRMAN put to the vote the United States oral amendment proposing to replace the word "shall" by the word "may" in the English text of paragraph 2 of article 16 of the draft covenant.

The proposal was adopted by 10 votes to 1, with 5 abstentions.

The CHAIRMAN put to the vote the words "in a democratic society" proposed in the French amendment (E/CN.4/L.202) to the United Kingdom amendment (E/CN.4/L.146).

Those words were adopted by 9 votes to 6, with 1 abstention.

/The CHAIRMAN

The CHAIRMAN put to the vote the words "in the interests of" proposed in the United Kingdom amendment (E/CN.4/L.146).

Those words were adopted by 8 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the words "national security" in the United Kingdom amendment (E/CN.4/L.146).

Those words were adopted by 11 votes to 4, with 1 abstention.

The CHAIRMAN put to the vote the words "for the prevention of disorder" in the United Kingdom amendment (E/CN.4/L.146).

Those words were rejected by 11 votes to 4.

Mr. HOARE (United Kingdom) withdrew his delegation's proposal to insert the words "for the prevention of crime" (E/CN.4/L.146).

The CHAIRMAN put to the vote the words "the maintenance of order" in the French sub-amendment (E/CN.4/L.202).

Mrs. ROOSEVELT (United States of America) asked for an English translation of the French words "ordre public".

The CHAIRMAN pointed out that the Commission had decided at its 325th meeting on the word "order".

The words "the maintenance of order" were rejected by 8 votes to 4, with 4 abstentions.

The CHAIRMAN put to the vote the word "public" which the French delegation proposed to insert before the words "health or morals" (E/CN.4/L.202)

That word was adopted by 8 votes to 4, with 3 abstentions.

/Mr. JUVIGNY

Mr. JUVIGNY (France) asked for a separate vote on the first part of the sentence which the United Kingdom delegation proposed to add at the end of paragraph 2 of article 16 (E/CN.4/L.146), from the words "This article" to the words "of the police".

Those words were adopted by 9 votes to 5, with 2 abstentions.

The CHAIRMAN put to the vote the second part of the sentence which the United Kingdom delegation proposed to add at the end of paragraph 2 of article 16, consisting of the words "or of the administration of the State".

Those words were rejected by 8 votes to 4, with 4 abstentions.

Paragraph 2 of article 16, as amended, was adopted by 2 votes to 3, with 5 abstentions.

Paragraph 3 of article 16 (E/1992, Annex I), to which no amendment had been made, was adopted by 12 votes to none, with 4 abstentions.

Article 16 as a whole, as amended, was adopted by 11 votes to none, with 5 abstentions.

Mr. SANTA CRUZ (Chile) explained that his delegation had abstained from voting on article 16 as a whole because it did not approve of the restrictions therein provided. He had asked that trade unions should not be referred to specifically in that article, because the result of such mention would be to impose unacceptable restrictions on the right to form trade unions. The article on trade union rights that had been adopted for the covenant on economic, social and cultural rights contained different provisions; that divergence represented a serious danger, for which the delegations that had supported the reference to trade unions in article 16 were responsible.

Mr. NISOT (Belgium) said that he had voted for the words "for the protection of his interests" in paragraph 1 of article 16 because that restriction on the right of association made it possible to raise in each specific case the question whether the interests of the person concerned were indeed at stake and whether he was entitled to join a given union.

/s/ Mr. BRACCO

Mr. BRACCO (Uruguay) said he had abstained from voting on the article as a whole for the reasons stated by the representative of Chile.

Mr. HOARE (United Kingdom) said he had abstained from voting on paragraph 2 of article 16, as on article 15, because he was not satisfied with the expression "public order" and because he considered that the phrase "or of the administration of the State" which the Commission had rejected was an indispensable addition to paragraph 2 of the article. Nevertheless, he had voted for the article as a whole because, although the mention in it of trade union freedoms was essential and the other restrictions it imposed on the right of association were well founded.

Article 17

The CHAIRMAN called upon the Commission to consider article 17.

Mr. JEVREMOVIC (Yugoslavia) expressed dissatisfaction with the existing wording of article 17, and proposed to replace it by another text (E/1992, Annex III, Section A, page 32). The original text reduced the scope of the principle of non-discrimination and confused two totally different ideas, that of equality before the law and that of non-discrimination. Those two ideas had arisen at different times in history and for different reasons. The text proposed by the Yugoslav delegation clearly drew the necessary distinction between those two ideas. The article adopted by the Commission contained a non-discrimination clause with a limited scope, since it applied only to the rights recognized in the covenant. The text of article 17 proposed by Yugoslavia would apply to all rights, even to those which were not strictly legal in content. It would not, therefore, overlap with article 1.

Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that his amendment (E/CN.4/L.127) supplemented the original text of article 17. It should therefore be understood that his amendment would apply to the Yugoslav substitute text if adopted by the Commission, and similarly to any other amendment proposing to substitute new provisions for those of the original text.

The CHAIRMAN assented.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) did not consider that any procedural problem was raised by the USSR amendment, which proposed an addition to any text that the Commission might adopt.

Mr. MOROZOV (Union of Soviet Socialist Republics) moved the adjournment of the meeting.

The Commission decided by 9 votes to 3, with 2 abstentions, to postpone further discussion of article 17 until the following week.

The meeting rose at 5.35 p.m.