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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THIRTEENTH, FIFTEENTH AND TWENTY-FIRST MEETINGS

Held at Headquarters, New York,
on Wednesday, 11 June 1972, at 10.30 a.m.

CONTENTS:

Draft International covenants on human rights and measures of implementation (E/1992, E/CN.4/508, E/CN.4/508/Add.1, E/CN.4/L.121, E/CN.4/L.136, E/CN.4/L.139/Rev.2, E/CN.4/L.211, E/CN.4/L.212, E/CN.4/L.208, E/CN.4/L.148, E/CN.4/L.146/Add.15) (continued)

<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Reporteur:</u>	Mr. WEITLAN	Auxiliary
<u>Members:</u>	Mr. HICOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHEBO TACHAN	Chad
	Mr. AZMI Bay	Egypt
	Mr. CASCIH	France

Members (continued):

Mr. KIRCO	Greece
Mrs. KISHA	India
Mr. ASHOU	Lebanon
Mr. WARED	Pakistan
Mr. SCHATTNER	Poland
Mrs. ROSS	Sweden
Mr. NOVALINCO	Ukrainian Soviet Socialist Republic
Mr. MERKOV	Union of Soviet Socialist Republics
Mr. BOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVANOVIC	Yugoslavia

Also present: Miss MAMAN Commission on the Status of Women

Representatives of non-governmental organizations:

Category B
and Registrar:

Mrs. de BROCK	Catholic International Union for Social Service
Mr. SOLIE	Commission of the Churches on International Affairs
Mr. MONOWITZ	Consultative Council of Jewish Organizations
Mr. HALPERIN	Co-ordinating Board of Jewish Organizations
Mrs. SCUDAN	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Miss HIRSHAN	International Union for Child Welfare
Mr. RONALD Mrs. POLSTEIN	World Union for Progressive Judaism
Miss SCHAEFFER	World Union of Catholic Women's Organizations

/Secretary:

Secretariat: Mr. HANFORD ... Representative of the Secretary-General
Miss KITCHEN } Secretaries of the Commission
Mr. DAS }

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(E/1992, E/CN.4/520, E/CN.4/520/Add.1; E/CN.4/L.121, E/CN.4/L.156,
E/CN.4/L.199/Add.1, E/CN.4/L.211, E/CN.4/L.212, E/CN.4/L.200, E/CN.4/L.182,
E/CN.4/666/Add.15) (continued)

The CHAIRMAN proposed that the Commission should begin consideration of its report at the afternoon meeting on Thursday 12 June, even if the report had not been completed by then.

Mr. MITLAN (Australia), Rapporteur, said that if the Commission wished to begin consideration of its report on the date suggested by the Chairman, it would have to complete its discussions on the afternoon of 11 June so as to enable the translations to be made in time.

Mr. GILJIN (France) asked that his delegation might receive the French text of the report on the evening of Thursday 12 June so as to be able to study it and propose any amendments it might consider necessary.

The CHAIRMAN announced that the complete French translation of the report would be finished by the morning of Friday 13 June and that the Russian translation would be ready for the afternoon meeting on 12 June. He hoped that the Commission would be able at the succeeding meetings to complete consideration of article 2 and of the preamble and decide what was to be done with the draft new articles. It could then settle the procedural questions and determine the order of the articles of the covenant on economic, social and cultural rights.

Mr. NIJOT (Belgium) asked whether delegations would be able, if necessary, to submit observations setting out the views of the minority for insertion in the Commission's report.

/The CHAIRMAN

The CHAIRMAN replied that such had always been the Commission's procedure; the observations, however, had to appear in an annex to the report. He fixed the morning of Tuesday 17 June as the final date for their submission.

The Commission decided to begin consideration of its draft report on Thursday 12 June at 2.30 p.m. It also decided to fix 17 June 1952 as the final date for submission of the comments or observations of members of the Commission which were to be annexed to the report.

Mrs. ROOSEVELT (United States of America) thought that it would be better if the Commission were to deal with the resolutions to be submitted to the Economic and Social Council before considering the draft new articles. She withdrew her proposed numbering of articles in the covenant on economic, social and cultural rights (E/CN.4/L.163) in favour of the order proposed by the Chairman (E/CN.4/L.194).

Article 2 (continued)

The Chairman invited the Commission to resume consideration of article 2.

Mr. MITLAK (Australia) wished, with the consent of the United Kingdom delegation, to withdraw his proposal to include article 13, with the exception he had indicated, among the articles enumerated in paragraph 2 of article 2.

The Australian delegation agreed with the Belgian representative that a proposal to admit of a derogation from the right to manifest religion might create a bad impression. Nevertheless, derogations from that right or certain elements thereof might be necessary in cases of emergency. In any case, inclusion of that exception gave rise to difficulties and it was because his delegation recognized how great those difficulties were that it was withdrawing its proposal. It might perhaps be advisable to defer consideration of article 2, paragraph 2; the Commission could decide on the existing text of that paragraph or on the text proposed by the United Kingdom (E/CN.4/L.139/Rev.1) and merely note in its report that it was fully alive to the problems raised by article 13 and other articles with regard to
/derogations.

Delegations. The Report would make it clear that the Commission considered that the matter had not been settled at the eighth session but should be studied in greater detail at a later date.

Mr. MICHKOV (Union of Soviet Socialist Republics) said that after consultation with the head of the Russian translation section he was able to confirm what he had said at the previous meeting concerning the inaccuracy of the Russian translation of the English words "public emergency" (E/CN.4/L.199/Rev.1) which in that translation had been given the more restricted meaning of a public disaster. He pointed out that the text contained in his amendment (E/CN.4/L.212) was to be inserted after the words "state of emergency" in the text proposed by the United Kingdom.

The CHAIRMAN put to a vote by division the USSR amendment (E/CN.4/L.212) to the United Kingdom amendment to article 2 (E/CN.4/L.199/Rev.1)

The words "caused by circumstances" were rejected by 9 votes to 5, with 4 abstentions.

The words "threatening the integrity of the people and" were not adopted, 5 votes being cast in favour and 8 against, with 2 abstentions.

The CHAIRMAN put to the vote the French amendment (E/CN.4/L.211) to the United Kingdom amendment (E/CN.4/L.199/Rev.1), the English text having been amended orally.

The French amendment (E/CN.4/L.211) was adopted by 13 votes to none, with 5 abstentions.

The CHAIRMAN put to a vote by division the Yugoslav amendment (E/CN.4/L.212) to the United Kingdom amendment (E/CN.4/L.199/Rev.1).

The words "or with the principles of the Charter of the United Nations" were not adopted, 6 votes being cast in favour and 6 against, with 6 abstentions.

The words "and the Universal Declaration of Human Rights" were rejected by 7 votes to 3, with 8 abstentions.

The CHAIRMAN called for a vote by division on paragraph 1 of the United Kingdom amendment to article 2 (E/CN.4/L.199/Rev.1).

The words "threatening the life of the nation" were adopted by 14 votes to 4, with no abstentions.

/The word

The word "solely" was adopted by 7 votes to 1, with 2 abstentions.

The CHAIRMAN put to the vote the whole of paragraph 1 of the revised United Kingdom amendment (E/CN.4/L.139/Rev.1).

The paragraph as a whole was adopted by 15 votes to none, with 3 abstentions.

Mr. BOWRE (United Kingdom) agreed with the Australian representative that the mention of article 13 in paragraph 2 of article 2, with the exception in respect of the right to manifest religion, represented a possible solution of the problem of derogations raised by article 13 considered in relation to the right of derogation under articles 14 and 15. But as that solution was not satisfactory in every respect and as the same problem arose in connexion with other articles, such as articles 14 and 15, he agreed to the withdrawal of the Australian proposal. He would revert to the original text of paragraph 2 of article 2 but would like the Commission's report to mention the fact that a question of substance was involved which would have to be dealt with at a later date.

Mr. MCHIZOV (Union of Soviet Socialist Republics) pointed out that the observations contained in the summary records of meetings did not have the same official character as the texts on which the Commission had voted. His delegation therefore opposed any proposal to submit observations having no legal force.

The CHAIRMAN agreed but pointed out that representatives were free to submit explanatory notes which would appear in an annex to the Commission's report.

Mr. BOWRE (United Kingdom) withdrew his proposal and said that he did not wish to submit an explanatory note if the report faithfully reproduced the effect of the discussion, as he was sure it would do.

Mr. AZKOUR (Lebanon) recalled that his delegation had submitted a proposal (E/CN.4/L.213) to add article 5 (paragraphs 1 and 2) and article 8 (paragraph 2a) to the list of articles under consideration, proving that the list had not been adequately studied and should be supplemented.

/Mrs. MEYER

Mrs. MENON (India) pointed out that the Lebanese proposal constituted a sub-amendment to the United Kingdom amendment, which had been withdrawn, and that it was too late to submit amendments to the existing text of article 2.

Mr. KYROU (Greece) asked the Lebanese representative to withdraw his amendment and to be content with having his remarks noted in the record of the meeting.

Mr. EDWARDS (United Kingdom) was opposed to the Lebanese amendment. The words "arbitrary arrest" in article 6, paragraph 1, would raise difficulties in time of peace, but they would raise far greater difficulties in time of war. The United Kingdom delegation had always opposed the expression.

Mr. ACHILLE (Lebanon) pointed out that he had had no opportunity to explain his amendment and that, with the exception of the United Kingdom representative, no representatives had commented on it. Even so, in order to accelerate the Commission's work, he would withdraw his proposal, on the understanding that it would be mentioned in the report with a note to the effect that in his opinion the question required careful consideration.

The CHAIRMAN put to the vote the first sentence of article 2, paragraph 2.

The first sentence of the original text of article 2, paragraph 2, (E/1772, annex I) was unanimously adopted.

The CHAIRMAN noted that there was no need for a vote on the second sentence of paragraph 2 since it had been incorporated in the first paragraph by the adoption of the United Kingdom amendment.

He put to the vote the Yugoslav amendment (E/1772, annex III, section A) to paragraph 3, calling for the inclusion of the words "the reasons by which it was actuated".

The amendment was adopted by 9 votes to 3, with 6 abstentions.

Article 2, paragraph 3, as amended, was adopted by 14 votes to none, with 3 abstentions.

Article 2 as a whole as amended was adopted by 15 votes to none, with 3 abstentions.

/Mr. EDWARDS

Mr. HOSSE (United Kingdom) explained that he had voted against the Yugoslav amendment to paragraph 1 (E/CN.4/L.312) for the reasons stated by the Belgian representative, and against the Yugoslav amendment to paragraph 3 because he thought it wrong to place Governments under an obligation to go into the reasons which motivated their actions in individual cases; the addition was unnecessary in view of the fact that the action could only be taken in a situation of emergency anyway.

Mrs. MEHTA (India) explained that she had abstained on paragraph 3 because she was opposed to the word "immediately" which might create difficulties in emergency cases and because she considered it sufficient to inform the Secretary-General without also informing the contracting parties.

Mr. GAGEN (France) said that he had voted against the Yugoslav amendment to paragraph 1 because he considered it superfluous to mention the United Nations Charter which was part of international law and because it could hardly be said that derogations from the rights set forth in the Universal Declaration of Human Rights should be in conformity with that Declaration.

He had voted in favour of the Yugoslav amendment to paragraph 3 because, unlike the United Kingdom representative, he interpreted the words "the reasons by which it was actuated" in a wider sense and not as constituting an obligation to give the reasons in every case.

Mr. WHITLAM (Australia) associated himself with the United Kingdom representative's remarks.

Preamble

Mrs. MEHTA (India) proposed that since the word "recognised" already appeared in the body of paragraph 3, the word "Recognizing" in that paragraph should be changed to "acknowledging" (E/CN.4/L.118).

/s/ A. AZKUL

Mr. ALEXOU (Lithuania) introduced his delegation's amendment to the third paragraph of the preamble (E/CN.4/L.808). It proposed the inclusion of the word "inalienable", contained in the Universal Declaration of Human Rights and in the preamble to the covenant on economic, social and cultural rights. He would have liked the preamble to state the nature of these rights more clearly but, to simplify matters, he merely proposed the inclusion of the word "inalienable" which might be considered to meet that point.

Mr. JEVSEVIC (Yugoslavia) supported the Indian amendment, but opposed that Lithuanian amendment as the word "inalienable" was in contradiction with the text of the covenant which permitted derogations from the rights in question. He could accept that word if, as he would prefer, no limitation were set on the rights in the covenant.

Mr. CASLIN (France) thought that the word "affirming" proposed by the Indian representative was not appropriate. There had been no previous affirmation of the rights and liberties in question. He agreed with the Yugoslav representative on the word "inalienable", but thought that some of the rights set forth in the covenant could be derogated from. He proposed that the first paragraph of the preamble of the covenant on economic, social and cultural rights (E/CN.4/666/Add.15) should form the second paragraph of the preamble to the covenant on civil and political rights, and that the third paragraph of that preamble should be deleted.

Mr. BOANE (United Kingdom) endorsed the Yugoslav representative's remarks.

Mr. KYROU (Greece) preferred the existing text of the preamble, and agreed with the Yugoslav representative. There was a great deal to be said for the Indian amendment, but he thought that the word "affirming" would be better. Also, he would like the word "flow" to be replaced by some other word in the English text of the third paragraph.

/Mr. VALKENYIA

Mr. VALDIVIA (Chile) thought that the Lebanese amendment would necessitate lengthy debate, which was impossible at the present stage of the Commission's work. He would therefore vote against it. The third paragraph of the preamble should be deleted as the idea contained therein was already set forth in the Universal Declaration of Human Rights.

Mr. NISOT (Belgium) opposed the Lebanese amendment containing the word "inalienable" for the reasons given by the French representative. He thought that in the second paragraph of the preamble the words "bearing in mind" should be replaced by the word "Considering".

Mrs. ROOSEVELT (United States of America) supported the Lebanese amendment as the word "inalienable" was also contained in the preamble to the other covenant. She also supported the Indian amendment.

Mr. BURATYNSKI (Poland) recalled that the General Assembly had requested the Commission to include as many analogous provisions in the two covenants as possible. That should apply more particularly to the preambles, and he therefore proposed that the preamble of the covenant on economic, social and cultural rights (E/CN.4/666/Add.15) should be adopted as the preamble of the covenant on civil and political rights.

Mr. BOARE (United Kingdom) said that a preamble should be phrased in general terms and serve as an introduction to the articles which followed. He did not think therefore that the preamble to the covenant on economic, social and cultural rights could be adopted in toto for the other covenant, the more so since the second paragraph of that preamble clearly related to the covenant on economic, social and cultural rights alone.

/s/ Mr. AZKUL

Mr. ANKOU (Lithuania) thought that the Yugoslav representative's remarks were really an argument in favour of including the word "inalienable" on the fact that derogation was provided for made it particularly necessary to affirm the inalienable nature of "the rights" involved even though they might be subject to limitation.

If the Commission preferred to adopt the French proposal to rephrase the first paragraph of the preamble to the covenant on economic, social and cultural rights, he would bow to the general view.

Mr. MURKOV (Union of Soviet Socialist Republics) challenged the United Kingdom representative's statement that some statements in the preamble to the covenant on economic, social and cultural rights would be out of place in the preamble to the covenant on political and civil rights. In fact, there was no need even to insert "civil and political rights" before the words "economic, social and cultural rights" since the latter were a prerequisite for the former.

He asked the Lithuanian representative, for the sake of unanimity, not to press his amendment, taking into account the fact that the word "inalienable" was contained in the first paragraph of the preamble to the covenant on economic, social and cultural rights. Nevertheless, if the amendment was maintained, he would support it.

Mrs. NEHA (India) saw no objection to changing the word "Reaffirming" to "Affirming", although she noted that the word "Reaffirming" was used in the English text of the Charter and the Universal Declaration of Human Rights.

Mr. JEVSEVIC (Yugoslavia) explained to the Lithuanian representative that he was not opposed in principle to regarding human rights as inalienable, but that that word was inappropriate in the present text; indeed, it could not be affirmed in the preamble that the rights set forth in the covenant were inalienable, so long as article 2 permitted certain derogations from them. He was prepared to accept the Polish or the French representative's proposal.

Mr. NIDOF (Belgium), without making a formal proposal, wondered whether the word "indefeasible" ("inprescriptible") would not be better than "inalienable". It was not open to objection and was just as striking.

Mr. CASHEE (France) said that all the remarks showed that there was a
/conflict

conflict between the provisions of the preamble which stated that the rights recognized in the covenant were inalienable and the other provisions of the covenant. Yet the word "inalienable" was perfectly acceptable in a different context as for example in the first paragraph of the preamble of the covenant on economic, social and cultural rights.

General Assembly resolution 543 (VI) recommended that the two covenants should contain "as many similar provisions as possible". For his part he was in principle in favour of the preamble to the two covenants being the same, although he thought that the second paragraph of the preamble to the covenant on economic, social and cultural rights could not be used for the covenant on civil and political rights without some adjustment. It would have to emphasize civil and political rights. He therefore proposed that the end of that paragraph should be amended as follows: "whereby everyone may enjoy civil and political, as well as economic, social and cultural rights...".

Mrs. ROOSEVELT (United States of America) thought that it would be better to retain the existing text of the preamble, with the amendments of Lebanon and India. The first paragraph of the preamble to the covenant on economic, social and cultural rights could, however, be adopted, although the second paragraph, which emphasized economic, social and cultural rights would have to be amended so as to apply to the covenant on civil and political rights. It was felt by some that economic and social rights were more important than civil and political rights, but many countries with a long democratic tradition knew well that civil and political rights were indispensable for the attainment of economic and social rights and freedoms. She was prepared to accord the same importance to the two categories of rights, but would not agree to destroying that balance in favour of economic and social rights. Ideally, she thought that the fourth paragraph of the preamble to the covenant on economic, social and cultural rights should be deleted.

Mr. KIRCU (Greece) was in complete agreement with the French representative; he wondered, however, whether it would not be better if the French amendment to the second paragraph were changed to "civil, political, economic, social and cultural".

/ASIK Day

AMEI Bey (Egypt) also supported the French representative's proposal; at the present stage of society's development, all human rights were equally important. In order to comply with the General Assembly's instructions, similar preambles should be adopted for both covenants, it being understood, however, that in the preamble to the covenant on civil and political rights civil and political rights should be mentioned before economic, social and cultural rights, as the French representative had proposed.

Mr. WHITLAM (Australia) would have preferred the text of the draft covenant, if the word "Recognising" were replaced by the word "Affirming"; he also suggested, to meet the objections raised to the word "flow" in the English text, that it should be replaced by the word "derived". If, however, the Commission decided to use the preamble to the covenant on economic, social and cultural rights, the second paragraph should include not only the amendment proposed by the French representative, but also the words "enjoying civil and political freedom" instead of the words "enjoying freedom from fear and want". Unlike the United States representative, he thought that the fourth paragraph of the preamble should be included in the covenant on civil and political rights. He also suggested that the third paragraph of the present preamble should become the last paragraph.

Mr. KORATYNSKI (Poland) hoped that the Commission would be able to reach a unanimous decision on the preamble to the first covenant, just as it had on that to the second. With that end in view, he accepted the proposal put forward by the French representative, although he thought that it was useless to recognize civil and political rights unless the enjoyment of economic and social rights was assured. On the other hand, he was opposed to the Australian amendment, and any further amendment which might be submitted; all the provisions of the preamble to the second covenant might be included in the first covenant, and, in order to comply with the General Assembly's instructions, the preambles should be as much alike as possible.

Mrs. ROOSEVELT (United States of America) supported the Australian amendment and thought that, if it were adopted, the fourth paragraph could be

/retained.

retained. She hoped that the representative of Poland would be able to change his mind and to accept the amendment, the purpose of which was identical with that of the French amendment.

Mr. BRACCO (Uruguay) supported the Polish representative's proposal and thought that the French amendment was indispensable. His delegation accepted the principle of making the preambles as much alike as possible and wished at the same time to reaffirm the value and equal importance of the two categories of rights. It could not therefore accept any amendment other than that of France and would oppose the Australian amendment, though it had no criticism to make concerning its substance. He wondered if the representative of Australia would agree to withdraw his amendment in order to obtain a unanimous vote on the preamble.

Mr. BOWEN (United Kingdom) thought that in theory it would be possible to draft identical preambles to the covenants. The preamble to the second covenant, however, contained certain provisions, particularly the expression "enjoying freedom from fear and want" which were quite in order in a covenant on economic and social rights but which were out of place in the covenant on civil and political rights. The preamble to the latter should lay particular stress on those rights. He was prepared to accept the French and Australian amendments and he hoped that the Polish representative would be able to change his mind on the latter. If an identical text for both covenants was insisted upon the Commission would have to decide to redraft the preamble to the second covenant.

Mr. HAJEK (Pakistan) supported the Australian amendment, which took into account both the need for adopting similar preambles and that of laying particular stress on civil and political rights in the first covenant.

Mr. KIROU (Greece) fully understood the idea which had moved the Australian delegation to submit its amendment, but said that it would be a pity to delete the phrase "enjoying freedom from fear and want" which expressed one of the four essential freedoms formulated by President Roosevelt. It might be pointed out that before he could enjoy freedom from want, a man must be in enjoyment of his economic and social rights but that to enjoy freedom from fear, he must enjoy his civil and political rights.

/s/ W. MERZLOV

Mr. MOROSOV (Union of Soviet Socialist Republics) did not understand why the Australian representative wished to delete the words "enjoying freedom from fear and want"; the phrase, which appeared in the Universal Declaration of Human Rights, combined essential elements which should not be artificially separated. A man deprived of his economic and social rights would hardly represent the ideal of a free man envisaged in the Declaration of Human Rights. Mr. Morosov would therefore vote against the Australian amendment which, furthermore, questioned the principle of similarity. In a spirit of compromise, he would accept the French amendment, although he did not consider it indispensable.

Mr. VALDESKIA (Chile) proposed the closure of the debate.

The CHAIRMAN said that, in view of the lateness of the hour, that proposal would have to be considered at the next meeting.

Mrs. ROOSEVELT (United States of America) enquired whether her delegation would be given an opportunity to furnish detailed information in reply to certain accusations made in the course of the session against the Government of the United States.

Mr. MERCOV (Union of Soviet Socialist Republics) saw no objection to acceding to that request, always provided that his own delegation was allowed a similar opportunity.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) also wanted to reserve his delegation's rights on that point.

The CHAIRMAN said that it was a matter for the Commission to decide; for his own part he thought that care should be taken to ensure that delegations requesting that right should be granted it under the same conditions.

The meeting rose at 1.10 P.M.