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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SEVENTY-SIXTH MEETING

Held at Headquarters, New York
on Friday, 2 May 1952, at 10.50 a.m.

CONTENTS: Draft international covenants on human rights and measures of implementation (E/1992, E/CN.4/654, E/CN.4/654/Add.1 to 6, E/CN.4/655, E/CN.4/655/Add.1 to 4, E/CN.4/650, E/CN.4/660, E/CN.4/661, E/CN.4/NGO.35, E/CN.4/L.46, E/CN.4/L.47, E/CN.4/L.48, E/CN.4/L.49, E/CN.4/L.50, E/CN.4/L.51, E/CN.4/L.52, E/CN.4/L.53/Corr.1, E/CN.4/L.57, E/CN.4/L.58, E/CN.4/L.59, E/CN.4/L.60, E/CN.4/L.61, E/CN.4/L.62, E/CN.4/L.63, E/CN.4/L.64, E/CN.4/L.66, E/CN.4/L.67, E/CN.4/L.68, E/CN.4/L.74, E/CN.4/L.75, E/CN.4/L.76, E/CN.4/L.77, E/CN.4/L.78, E/CN.4/L.82 and E/CN.4/L.90)
(continued)

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| <u>Chairman:</u> | Mr. CASSIN | (France) |
| <u>Rapporteur:</u> | Mr. WHITLAM | Australia |
| <u>Members:</u> | Mr. NISOT) Mr. FENEAU) | Belgium |
| | Mr. SANTA CRUZ | Chile |
| | Mr. CHENG PAONAN | China |

Members (continued):

| | |
|----------------|---|
| AZMI Bey | Egypt |
| Mr. JUVIGNY | France |
| Mr. KYROU | Greece |
| Mrs. MEHTA | India |
| Mr. AZKOUL | Lebanon |
| Mr. WAHEED | Pakistan |
| Mr. BORATYNSKI | Poland |
| Mrs. ROSSEL | Sweden |
| Mr. KOVALENKO | 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:

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| Miss MANAS | Commission on the Status of Women |
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Representatives of specialized agencies:

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| Mr. MORELLET) | International Labour Organisation (ILO) |
| Mr. PICKFORD) | |
| Mr. HILL | World Health Organization (WEO) |
| Mr. ARNALDO) | United Nations Educational, Scientific and Cultural Organization (UNESCO) |
| Mr. SABA) | |

Representatives of non-governmental organizations:

| | | |
|-------------------------------------|--------------|--|
| <u>Category A:</u> | Mr. LEARY) | International Confederation of Free Trade Unions (ICFTU) |
| | Miss SENDER) | |
| | Miss KAHN | World Federation of Trade Unions (WFTU) |
| <u>Category B and Register:</u> | Mrs. SOUDAN | International Federation of Business and Professional Women |
| | Miss DINGMAN | International Union for Child Welfare |
| | Miss GARTIAN | International Union of Catholic Women's Leagues |

Category B and Register (continued):

Mr. FENCE) World Alliance of Young Men's
Christian Associations
Mr. JACOBY) World Jewish Congress
Mr. RONALDS) World Union for Progressive Judaism
Mrs. POLSTEIN)

Secretariat:

Mr. HUMPHREY) Director, Division of Human Rights
Mr. DAS) Secretaries of the Commission
Miss KITCHEN)

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(E/1992, E/CN.4/654, E/CN.4/654/Add.1 to 6, E/CN.4/655, E/CN.4/655/Add.1 to 4,
E/CN.4/650, E/CN.4/660, E/CN.4/661, E/CN.4/NGO.35, E/CN.4/L.46, E/CN.4/L.47,
E/CN.4/L.48, E/CN.4/L.49, E/CN.4/L.50, E/CN.4/L.51, E/CN.4/L.52,
E/CN.4/L.53/Corr.1, E/CN.4/L.57, E/CN.4/L.58, E/CN.4/L.59, E/CN.4/L.60,
E/CN.4/L.61, E/CN.4/L.62, E/CN.4/L.63, E/CN.4/L.64, E/CN.4/L.66, E/CN.4/L.67,
E/CN.4/L.68, E/CN.4/L.74, E/CN.4/L.75, E/CN.4/L.76, E/CN.4/L.77, E/CN.4/L.78,
E/CN.4/L.82 and E/CN.4/L.90) (continued)

The CHAIRMAN asked the Commission whether, in view of the decision taken at its 268th meeting that all amendments to articles 20, 21 and 22 of the draft covenant must be submitted by midday on 28 April, the United States and French amendments (E/CN.4/82 and E/CN.4/90 respectively) just submitted to the Chilean amendment to article 20 could be accepted.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) thought that the amendments should be considered, since it had been stated at the 265th meeting that such amendments could be received up to 10.30 a.m. on 2 May. Moreover, the decision the Commission had taken at its 268th meeting should be given a very broad interpretation, as the establishment of a time limit had not been intended to prevent any improvement of the wording of articles which had necessarily been influenced by the adoption of a general clause.

Mr. AZKOUL (Lebanon) said that the decision taken at the 268th meeting had not applied to amendments of amendments and that there were precedents in support of their being accepted.

Mr. KYROU (Greece) and Mr. HOARE (United Kingdom) associated themselves with the remarks of the Chilean and Lebanese representatives.

The CHAIRMAN asked the Commission whether it agreed to consider the United States and French amendments and whether it wished to follow the same procedure for the articles following article 20.

It was so decided.

Mr. JEVREMOVIC (Yugoslavia) recalled that the question of the right to work, which was the subject of articles 20 to 22, had already been discussed at length by the Commission; in his opinion, it had been made unnecessarily complicated. The wording of article 20 seemed to him to be confused and vague, for there was no practical value in the simple recognition of a right: what was important was the obligations of States with regard to the exercise of that right. Those obligations should therefore be stated in a separate clause. The right to work was a fundamental human right, for if the individual was to subsist he must have the means of earning a livelihood. It was a right that concerned the vast majority of human beings who were faced with the need of

finding work, no matter how undeveloped their country might be. The Commission could not disregard such a social problem and refuse to proclaim the right to work.

Yugoslavia was doing its utmost to ensure that all its people should have suitable employment to provide them with a livelihood. Such an obligation was a considerable burden to the public authorities but it was one of the most important duties of the State towards its citizens. Article 20 was closely linked to article 22, since the individual was always liable to lose his means of livelihood as a result of unemployment or sickness; in that case, the State must guarantee him the necessary minimum by means of social insurance and relief. The wealth of a country should not enter into the question except in so far as the countries at a more advanced stage of economic development gave more than those that were less developed. The foregoing considerations had prompted the Yugoslav delegation to submit a draft amendment to article 20 (E/CN.4/L.58).

The Yugoslav delegation would support the Chilean draft amendment (E/CN.4/L.53/Corr.1), which was in line with the views he had put forward, provided, however, that the obligations of the State as set forth in article 20 would be linked to those in article 22. It was not easy for an under-developed country to guarantee work for all; the State could certainly undertake to adopt all the necessary measures to produce full employment but what was to become of the unemployed until such time as the measures had been put into effect? If article 22 contained no provision to cover such cases, the text proposed by the Chilean delegation for article 20 might be considerably weakened.

He considered the USSR draft amendment (E/CN.4/L.45) illogical and inadequate. The State could not enter into collective contracts unless it was the employer and the statement that no one must die of hunger or inanition recalled the days of slavery, when the master protected his slaves against famine simply in order that he might continue to have the use of their labour. The Commission could not merely ensure the workers such an elementary standard of living.

Mrs. ROOSEVELT (United States of America) stated that full employment, which was spoken of in the Charter, was one of the main concerns of her Government, as was to be seen from numerous declarations and an Act of Congress in which the Federal Government had undertaken to achieve full employment by all the means within its power. Recalling the work of the Economic and Social Council on the problem, she pointed out that it had realized that legislative measures were not the only means whereby that objective could be attained. Whether it was a question of the policy, the programmes, the technique or the legislative measures that must be adopted for the purpose, the constitutional procedure of each Government and the economic, social and cultural level of each country should be borne in mind. The discussions at the eleventh session of the Economic and Social Council had shown that the problem was related to that of increased productivity.

She was sorry to note that the Chilean draft amendment (E/CN.4/L.53/Com1) disregarded the fact that, in view of article 1, which the Commission had already adopted and which was equally applicable to article 20, full employment depended upon the resources of a country and could not be achieved immediately. It was important that the political and economic freedom of the individual should be guaranteed, so that forced labour could not be legitimized. That was why the United States delegation had submitted an amendment (E/CN.4/L.82), which took full account of the Economic and Social Council's work and the resolution the Commission had adopted unanimously at its sixth session.

Mr. KYROU (Greece) stated that his delegation could not support the USSR amendment (E/CN.4/L.45), because the text, instead of giving workers a certain right, might force upon them the obligation of accepting any kind of work in order not to die of hunger -- which was, as a matter of fact, in keeping with the policy of the USSR Government.

He agreed with the United States representative's remarks on the subject of full employment and reserved the right to comment upon the United States and French amendments (E/CN.4/L.82 and E/CN.4/L.90) at a later stage.

With regard to the Yugoslav amendment, he saw no point in changing the whole text of article 20.

Miss KAHN (World Federation of Trade Unions) supported the USSR and Chilean draft amendments (E/CN.4/L.45 and E/CN.4/L.53/Corr.) to article 20. She was glad to note that the Chilean text was directly based upon the proposal concerning article 20 which the WFTU had submitted to the seventh session of the Commission (document E/CN.4/NGO.28) with the omission, however, of the proviso that "productive employment" should be "of a peace-time character". It was of the utmost importance that article 20 should be improved, for the right to work was a fundamental right. The WFTU had always made a point of drawing the attention of the United Nations to urgent economic and social questions: at the present moment right to work problems were particularly acute in capitalist countries.

She quoted a message from the Geneva correspondent of the New York Times stating that unemployment had increased in the European countries, especially as a result of the reduction of purchasing power. The figures published by the United Nations in its Monthly Bulletin of Statistics bore out that information and gave specific details on the rapidity with which unemployment was increasing. Even in the United States, where the total employment level was still high, there were many areas where unemployment was rife; the statistics of the Department of Labor and the statements of AFL and CIO trade unionists agreed on that point and were conclusive evidence. Such a situation would not have arisen if the Governments had been obliged to ensure the continuous employment of all workers or shown the same responsibility that they evinced in protecting the interests and welfare of industry.

The USSR delegation was fully justified in insisting in its amendment (E/CN.4/L.45) that the right to work must be guaranteed by the State, so that workers should not die of hunger or inanition. The fact that millions of workers throughout the world were on part time, as in the American brass and copper industry, for example, or in the British textile industries or were employed part of the year only proved that work was not sufficient in itself: the right to work must be guaranteed as the right to work in conditions that enabled the workers to subsist and maintain adequate living standards.

The Chilean amendment (E/CN.4/L.53/Corr.1) embodied an idea that was dear to the WFTU --namely, the need for the adoption of legislative measures to ensure full productive employment. Millions of workers, particularly in Western Europe, knew how illusive were the benefits that war production appeared to bestow. The present period was characterized by ever-increasing profits, while workers experienced long hours, speed up, serious spot unemployment, worsened working conditions and ever lower standards of living. The right to

work must be total and must be guaranteed at all times. It was a fundamental individual right but its fulfilment was the responsibility of the State and the USSR and Chilean amendments were specifically designed to make it so.

Mr. SANTA CRUZ (Chile) was glad that the United States amendment (E/CN.4/L.82) to the Chilean amendment (E/CN.4/L.53/Corr.1) recognized the fact that practical measures to ensure full employment were necessary for the attainment of the right to work. There was, however, no justification for the United States delegation's complaint that the Chilean amendment required States to achieve full employment immediately. What the Chilean text did was to ask States to adopt measures that would guarantee the attainment of full employment, but it allowed for the fact that economic or other factors might limit their action. The Chilean delegation thought, moreover, that the attainment of full employment depended not only upon national action but also upon international co-operation.

The reason the Chilean amendment did not refer explicitly to anything but legislative measures, as the United States delegation complained, was that it did not seem necessary to specify the means by which a policy of full employment was to be applied. Other United Nations bodies had made a thorough study of the techniques that should make that objective attainable and the Chilean delegation's ideas on full employment and the means of achieving it in no way differed from those embodied in the numerous Economic and Social Council resolutions on the subject.

The United States amendment (E/CN.4/L.82) was no more than an abstract recognition of the need for attaining full employment, for it made no reference to the obligations of States in that connexion and seemed to find the general article concerning all economic, social and cultural rights quite adequate for the purpose. The Chilean delegation thought that the obligations of States in the matter of the right to work and the need of achieving full employment should be embodied in a separate article. That being so, it was prepared to withdraw its amendment if the United States delegation would agree to the insertion of the words "national and international" before the word "programmes" in its own text. The United States draft would then take into account the resolutions in which the General Assembly and the Economic and Social Council requested States to ensure

/the achievement

the achievement of full employment and to take action to promote economic development, especially in under-developed countries. If the United States would accept that suggestion, the Chilean delegation would put forward its own amendment (E/CN.4/L.53/Corr.1) as a new article to follow article 21. The Chilean delegation would like to see article 20, together with the United States amendment, in the form of two paragraphs, one recognizing the right to work and the other stating the necessity of ensuring the attainment of that right by continuous economic development and full employment. Article 21 would define working conditions, while the new article proposed by Chile would state the obligations of States to guarantee the attainment of the rights outlined in articles 20 and 21.

With regard to the USSR amendment (E/CN.4/L.45), he would vote for it if it was added to article 22 of the draft covenant, in which the right to social security was recognized. The USSR amendment could form paragraph 2 of that article, thus giving the right to social security a more practical aspect. However, article 21 of the draft covenant went further than the USSR amendment in that it recognized the right to a decent existence not only for workers but for all those who by reason of age, health or economic factors might be reduced to unemployment.

Miss SENDER (International Confederation of Free Trade Unions) pointed out that it was difficult to formulate the right to work, as that right could easily be exploited by States to justify forced labour. Full employment achieved by means of forced labour would certainly not mean greater well-being for mankind. States could bring about full productive employment on the basis of freely accepted work and nevertheless achieve a higher standard of living than if they resorted to forced labour.

The aims envisaged by article 20 of the draft covenant would be attained only in so far as the States provided every opportunity for employment and ensured a stable economy in which only temporary unemployment would be possible. Most free men wished to be of use to society rather than a burden upon it. It was therefore in the interest of the community that domestic and international measures should be taken to implement the provisions of Articles 55 and 56 of the

Charter regarding higher standards of living, full employment and economic and social development. Recalling that the General Assembly had asked States to undertake to pursue a policy of full employment, both in the national and in the international field, Miss Sender said the ICFTU would welcome an article 20 drafted accordingly, and that it was in agreement with the Chilean delegation on that point. It was for the States to seek and to apply measures to prevent unemployment and achieve full employment under conditions ensuring not only the satisfaction of material needs but also respect for freedom and the safeguarding of moral and spiritual values.

Mr. HOARE (United Kingdom) remarked first of all that he was by no means opposed to the citing of statistics on unemployment in certain countries, including the United Kingdom; the Commission had everything to gain from a knowledge of actual labour situations. He objected, however, to the tendency to make use of such statistics to criticize the policy of individual Governments or to express subjective views regarding the policy of States in the matter of full employment.

Referring to the amendments before the Commission, he agreed with the Yugoslav delegation that the USSR amendment (E/CN.4/L.45) laid down entirely insufficient standards for the implementation of the right to work. Both with regard to working conditions, which should safeguard the workers against dying of exhaustion, and with regard to social security guarantees designed to prevent their dying of starvation, the provisions of articles 21 and 22 of the draft covenant were much more precise than the text of the USSR amendment. The United Kingdom delegation was therefore unable to vote for that amendment.

He considered that the Yugoslav amendment (E/CN.4/L.58) oversimplified the existing text of article 20 and altered its sense. The Yugoslav delegation had recognized that not all States were in a position to undertake to create immediately conditions under which everyone would be sure of finding employment if he wanted it. The text of article 20 of the draft covenant, which did not lay down such requirements, therefore seemed preferable in that respect.

/With regard

With regard to the Chilean amendment (E/CN.4/L.53/Corr.1), he was entirely in favour of having recourse to State action, both in the national and in the international field, for the attainment of the right to work and of full employment, and it was indispensable that the covenant should recognize the need for that. He wondered, however, whether the Chilean text laid definite obligations, with immediate mandatory force, upon the States, or whether it did no more than proclaim the importance of the policy to be followed with regard to full employment and the need for achieving that goal. In the first case, the text might give rise to difficulties, owing to the economic position of certain countries; in the second, it would be better to include the text in the preamble of the covenant. However, he would examine more carefully the scope of the Chilean amendment.

Mr. JUVIGNY (France) recalled that his delegation had already pointed out the advantage of introducing the idea of full employment into the covenant but that it had expressed reservations regarding the formula proposed by Chile (E/CN.4/L.53/Corr.1). The sub-amendment proposed by his own delegation (E/CN.4/L.90) was the logical outcome of those reservations. He might return to the question, should the Chilean representative decide to withdraw his amendment.

The United States sub-amendment (E/CN.4/L.82) met one of the objections raised by his delegation; it did not impose upon States a total and immediate legal obligation, the fulfilment of which would depend upon the total technical means available. As to the substance, he approved the ideas expressed in the text. But the French delegation considered that it would be dangerous to specify in the covenant the technical means for ensuring full employment. The United Nations had, of course, done some work in that field. But, if, in general it were decided to take that work into account, the covenant would contain long, detailed articles regarding matters that had been the subject of technical studies, and shorter articles on those that had not, which would create a lack of balance and spoil the unity of conception. The French delegation therefore had to express reservations with regard to the principle on which the United States sub-amendment had been based and maintain the formula it had proposed, under which the States recognized the need for a full employment policy.

/Regarding the

Regarding the text proposed by the USSR (E/CN.4/L.45), the French delegation endorsed the criticisms already made by various delegations, in particular those of the United States, Yugoslavia and the United Kingdom. The objective laid down was clearly inadequate. Moreover, the idea expressed ought not to be applied to the right to work. The Chilean representative had been of the opinion that it would be more appropriate in the article dealing with social security, and there was no doubt that social security was one of the means that should be used for excluding the threat of death from hunger or inanition. But that idea should be applied also to other rights, in particular to the right to a satisfactory state of health and to the provisions regarding the protection of mothers and children. It would therefore be preferable if it were stated in the preamble, where the purposes of the covenant would be set forth.

The main idea on which the Yugoslav proposal (E/CN.4/L.58) was based seemed already to have been expressed in the French text of article 20 adopted by the Commission during its seventh session, and the text of which, moreover, seemed preferable.

Mr. AZKOUL (Lebanon) considered that the articles regarding economic, social and cultural rights should constitute a detailed explanation and application of the general provisions contained in article 1 of the second covenant to be adopted by the Commission. The subsequent articles should be examined on the basis of that first article, which imposed obligations regarding all the rights stated in the covenant. There was thus no need to restate those obligations for each particular right. In addition to a recognition of the right referred to by each of them, the articles of the covenant might perhaps lay down special obligations, above those provided for in article 1, and arising out of the nature of each right.

In the light of those remarks, he then proceeded to examine the text proposed by the Chilean delegation (E/CN.4/L.53/Corr.1), of which he approved, so far as its substance was concerned. But it was hard to see whether the obligations provided for merely reiterated those of article 1 or whether new obligations were involved. In view of the Chilean amendment (E/CN.4/L.71) to the United States proposal regarding article 1, it would seem that they were

/specific

specific obligations, more exacting than those of article 1. If that were so, he could not support the amendment, as his Government could not possibly guarantee immediately and fully the exercise of the right to work and the achievement of full productive employment. If, on the other hand, the article was intended merely as a restatement of the obligations contained in article 1, he had no objections to make regarding the substance, though he wondered whether any purpose was served by such a repetition. There were certain drafting differences between article 1 and the article proposed by Chile, but it was hard to draw any conclusions from them. Article 1 placed legislative and other means on the same level, while the Chilean amendment provided that the State had to adopt measures, particularly of a legislative nature, to guarantee the right to work. If the Chilean representative considered that the adoption of legislative measures was more important with regard to the right to work than with regard to other rights, he should state that more clearly. Furthermore, the expression "guarantee concretely the enjoyment of these rights" in the Chilean amendment seem to correspond exactly, as far as its substance was concerned, to the expression "achieving...the full realization of the rights..." in article 1. The Chilean draft amendment to article 20 introduced the idea of full employment; but full employment could be considered either as a means for ensuring the right to work, in which case there was no need to state it, or as a goal to be attained, in which case it was also unnecessary to mention it, since nothing would thereby be added to the obligations provided in article 1.

He thought that the United States delegation, by its proposed sub-amendment (E/CN.4/L.82), had wished to lessen the obligations contained in the Chilean draft amendment because it feared that that draft involved obligations different from those provided in article 1. Unfortunately it had at the same time weakened the obligations of article 1 by linking the attainment of the right to work to economic expansion; as that expansion had to be "steady", Governments could at any moment claim that it had not yet been achieved. The obligation would be even more problematical if the United States representative accepted the Chilean representative's proposal for the insertion of the words "national and international". The United States amendment contained a valuable idea, namely the need to achieve full and productive employment

/"under conditions

"under conditions ensuring fundamental political and economic freedoms to the individual". But it would be better if that idea were to be applied not only to the right to work but to all the rights laid down in the subsequent articles of the draft covenant on economic, social and cultural rights.

He agreed with the criticisms already expressed regarding the USSR amendment (E/CN.4/L.45) by a number of other delegations. In his opinion, that text dealt only with extreme cases, which were in fact the least frequent and which were largely covered by the obligations set forth in article 1. He was therefore unable to support that draft.

The meeting rose at 1 p.m.

16/5 p.m.