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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SIXTY-FIFTH MEETING

Held at Lake Success, New York
on Wednesday, 9 June 1948, at 10.15 a.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. LEBEAU	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. LARRAIN	Chile
	Mr. CHANG	China
	Mr. LOUFI	Egypt
	Mr. CASSIN	France
	Mrs. MEHTA	India
	Mr. de QUIJANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FONTAINA	Uruguay
	Mr. VILFAN	Yugoslavia
<u>Also present:</u>	Mrs. LEDON	Commission on the Status of Women
<u>Representatives of specialized agencies:</u>	Mr. METALL	International Labour Organiza- tion
	Mr. LEBAR	United Nations Educational, Scientific and Cultural Organization
<u>Observer from an inter-governmental organization:</u>	Mr. STONE	Preparatory Commission of the International Refugee Organization

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Consultants of non-governmental organizations:

Miss SENDER
Mr. van ISTENDAEL

American Federation of Labor
International Federation of
Christian Trade Unions

Secretariat:

Mr. HUMPHREY
Mr. LAWSON

Director, Human Rights Division
Secretary of the Commission

CONTINUATION OF THE DISCUSSION ON THE DRAFT DECLARATION ON HUMAN RIGHTS

(Document E/CN.4/95)

Article 23

The CHAIRMAN announced that the text of article 23 as proposed by the Drafting Committee would be voted upon paragraph by paragraph.

Paragraph 1 of article 23 was adopted unanimously.

Mrs. MEHTA (India) recalled that some members of the Drafting Committee had thought that paragraph 2 should constitute a separate article or be inserted in the preamble.

Mr. WILSON (United Kingdom) thought that the paragraph could be dealt with in three ways. It could be inserted in the preamble, in article 2 of the Declaration, or at the beginning of the list of economic and social rights. He suggested that a vote should be taken first to decide whether or not paragraph 2 should remain in article 23.

Mr. MALIK (Lebanon) opposed the idea that the paragraph should be inserted in articles 2, 3 or 23. He felt that it should be clearly stated somewhere in the Declaration that it was not enough to enumerate economic and social rights, but that society itself should be of such a nature as to ensure the observance of those rights. Favourable social conditions were necessary for that purpose. An article to that effect should therefore be included in the section devoted to economic and social rights.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that the worst fault of the old democracy was that it was too formal. It proclaimed certain rights but did not guarantee their observance. The Soviet Union would always be in favour of full implementation. If the means to exercise a certain right were not specified, the fact of proclaiming that right had no great value. The right to work should not remain an empty phrase. It would have no full meaning unless the measures to prevent unemployment were also

/set forth;

set forth; and the right place for such a provision was in the section devoted to economic and social rights.

Some members of the Commission wished to relegate that provision to the preamble in order to destroy whatever concrete usefulness it might have in the struggle against unemployment. The USSR representative declared that he would oppose any attempt to place the provision elsewhere, and asked the Chairman to proceed to the vote.

Mr. LOUFI (Egypt) suggested that paragraph 2 of article 23 should become a separate article to be placed at the beginning of the section devoted to economic and social rights, thus establishing a general principle.

Mr. LEBEAU (Belgium) supported the Egyptian representative and called for a decision on the question as to whether the provision contained in paragraph 2 should be placed in the preamble, in articles 2, 3 or 23 or expressed in a separate article. He proposed the deletion of the words: "by the State and" in the parenthesized phrase.

Mr. CASSIN (France) did not think that it would be possible to include such a provision in the preamble or articles 2 or 3. In his opinion it was necessary to establish that the individual was entitled to demand that the State, society and international co-operation should guarantee the right in question. He therefore proposed the following amendment to paragraph 2: "...ensured by such measures taken by the State and by international co-operation...".

Mr. WILSON (United Kingdom) asked a vote to be taken to establish whether the provision contained in paragraph 2 should remain in article 23. If it was decided not to insert it in article 23, a completely new text could be drafted to cover all the other economic and social rights as well.

/Mr. MALIK

Mr. MALIK (Lebanon), Rapporteur, thought that an article containing a provision to the effect that "everyone had a right to a good social order ensuring the enjoyment of..." might be inserted at the beginning or the end of the section dealing with economic and social rights.

He agreed with the French representative in believing that greater emphasis should be given to action within the State than to action by the State.

Mr. LEBEAU (Belgium) seconded the French representative's amendment and withdrew his own.

The CHAIRMAN agreed with the Lebanese representative. She thought that the Commission wished to have the paragraph inserted elsewhere in the Declaration and proposed the appointment of a sub-committee to prepare a new draft.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that paragraph 2 should first be put to the vote. A sub-committee could be appointed if that paragraph were rejected. If a new article in general terms were to be drafted, any reference to the prevention of unemployment would be lost. That was an important point on which the Commission should come to a decision by vote.

He thought that the provision of paragraph 2 should be retained, but that the idea of a general article was an excellent one provided that it did not involve the exclusion of that provision.

The CHAIRMAN remarked that the expressed conception of the necessity for full employment covered the prevention of unemployment.

Mr. MALIK (Lebanon) thought that the right to protection against unemployment could be included in the first paragraph of article 23. That would in no way interfere with the adoption of a general article covering

all economic and social rights.,

Mr. HOOD (Australia) believed that the difficulty might be solved if all economic and social rights were grouped together in a single article preceded by a provision similar to that contained in paragraph 2 of article 23, or as had been suggested by the French and Lebanese representatives.

Mr. LOPEZ (Philippines) supported the Lebanese representative's amendment. He had no objection to the insertion of a new article covering all economic and social rights. He thought, however, that it was possible to leave out the question of unemployment altogether, in view of the fact that Article 55 of the Charter contained a reference to full employment.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) did not think that the problem could be solved by a vote, since the question involved was one of principle. In his opinion, the only possible solution was to retain paragraph 2 of article 23 in its present form.

As regards the Australian representative's suggestion, Mr. Klekovkin did not think that it was acceptable in view of the fact that a separate article was devoted to each separate right throughout the other parts of the Declaration.

Mr. WILSON (United Kingdom) agreed with the Ukrainian representative. He went even further believing that the right to work on the one hand and unemployment on the other were two aspects of the same problem, taken from two different points of view, namely the point of view of the State and that of the individual. That being so, prevention of unemployment was already covered by the reference to full employment. He proposed to proceed to the vote.

/Mr. CHANG

Mr. CHANG (China) thought that it was difficult to decide whether or not the provision should be included in article 23, since no text was available on which all members agreed. He agreed with the Lebanese representative that reference to unemployment should be made in article 23 and that a general article should be placed at the end of the section devoted to economic and social rights.

He proposed the following text combining the provisions of paragraphs 1 and 2 of article 23:

"Everyone has the right to work and to just and favourable conditions of work and pay; that right includes the adoption of such measures as would create the widest possible opportunities for useful work and prevent unemployment."

He asked that his proposal be put to the vote.

Mr. VILFAN (Yugoslavia) proposed an amendment to the text submitted by the representative of China; involving the addition of the words: "taken by the State or society" after the word: "measures".

Mr. CASSIN (France) also proposed an amendment; he suggested the addition of the words: "taken by the various States, and with international co-operation" after the word: "measures".

Mr. CHANG (China) could accept neither of the two amendments.

Mr. PAVLOV (Union of Soviet Socialist Republics) asked whether the representative of Lebanon had withdrawn his amendment; he preferred the Lebanese to the Chinese text in view of its more energetic formulation.

Mr. LOPEZ (Philippines) stated that he had supported the Lebanese amendment; but, since the Chinese text corresponded more to his own wishes, he would support the latter and vote against the Lebanese amendment.

/The CHAIRMAN

The CHAIRMAN read out paragraph 1 as amended by the representative of China. She said that she would vote against that amendment.

Mr. MALIK (Lebanon) felt that his own draft was better; the word "protection", contrary to the views of the United Kingdom representative, was completely unambiguous and included all measures to be taken against unemployment.

Mr. Malik asked for a vote on his amendment. If that amendment were rejected, he would propose, as an amendment to the Chinese text, replacing the words: "the widest possible" by the word: "adequate". He pointed out that, while the French representative's intentions were excellent, his amendment might raise difficulties in introducing a new element which would require further study.

Mr. CHANG (China) accepted the Lebanese representative's amendment to his text.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that the Lebanese amendment was enhanced by the element to which the United Kingdom representative had objected. He proposed that the Lebanese text should be amended by the addition of the following clause: "guaranteed by measures (taken by the State or society) to create the widest possible opportunities for full employment." He pointed out that his amendment was based on the text of Article 55 of the Charter. Mr. Pavlov asked for a separate vote on the Lebanese, USSR, and Yugoslav amendments; the latter amendment consisted of adding the words between brackets to the phrase suggested by the USSR representative.

Mr. Pavlov also proposed that the Chinese draft should be amended by replacing the word: "includes" by the word: "provides".

/Mr. WILSON

Mr. WILSON (United Kingdom) stated that if the Indian representative accepted the Lebanese amendment, he would do the same. He agreed that the word: "protection" would not cause misunderstanding.

Mr. Wilson could not accept the Chinese amendment; it would be difficult to interpret since it concealed the disagreement without settling it.

Mr. CHANG (China) considered that his was a compromise formula; he pointed out that it was impossible to deal with the question of unemployment without mentioning measures to be taken against it.

Mr. CASSIN (France) stated that the USSR amendment led him to propose the addition of the phrase: "in the various States and with international co-operation" after the word: "measures".

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) asked for a full explanation of the meaning of the French amendment. Did it imply that, without international co-operation, States would take no measures against unemployment?

Mr. PAVLOV (Union of Soviet Socialist Republics) agreed with the Ukrainian representative's interpretation of that amendment, and asked whether the representative of France would not agree to withdraw his amendment.

Mr. CASSIN (France) stated that such interpretation of his amendment was incorrect and due, perhaps, to a certain ambiguity. He proposed that the text should read: "in the different States, separately, or with international co-operation."

Mr. FONTAINA (Uruguay) supported the French amendment which implied consultation with existing international organizations, in particular, with the International Labour Organization.

/Mr. HOOD

Mr. HCOD (Australia) recalled that the discussion had arisen over the question of whether or not the second paragraph of article 23 should be retained. He pointed out that the Lebanese amendment represented a mere drafting improvement of the first paragraph which dealt with the right of work and consequently with the maintenance of employment; the USSR and French amendments were concerned with the question of measures to be taken and would therefore have to be examined in the light of all the economic and social rights. Consequently it would be better to vote first on the Lebanese amendment which he supported.

Mr. FONTAINA (Uruguay) remarked that adoption of the Lebanese amendment would mean that the Commission abandoned the idea of a general article on measures to be taken to ensure the enjoyment of economic and social rights. He therefore requested that the Commission should first vote on the question of whether or not the second paragraph of article 23 should be retained.

Mr. PAVLOV (Union of Soviet Socialist Republics) supported the Chairman's suggestion to vote first on the amendments to the first paragraph of article 23; regardless of the decision on the USSR and French amendments, the Commission could then consider a general clause relating to measures to be taken in order to ensure enjoyment of economic and social rights.

Mr. CASSIN (France) withdrew his amendment in order to eliminate the difficulties and enable a vote to be taken on the Lebanese amendment.

Mr. LOUFI (Egypt) supported the suggestion to vote first on the Lebanese amendment in view of the fact that it related to the first paragraph.

/Mr. LEBEAU

Mr. LEBEAU (Belgium) shared the view of the representative of Uruguay that a vote should first be taken on the preliminary question of whether or not the Commission wished to retain the idea in the second paragraph of article 23.

Mr. MALIK (Lebanon) remarked that his amendment applied to the first paragraph, consequently the normal procedure would be to take a decision on that paragraph before considering the second paragraph.

He would vote against the USSR amendment which, however, might fit into a separate article.

Mr. Malik specified that his amendment would complete the first paragraph by stating the theory of the right of constant work; its adoption would in no way prejudice the acceptance of a separate article on the measures to be taken.

The CHAIRMAN put the Yugoslav, USSR and Lebanese amendments to the vote.

The Yugoslav amendment was to add the words: "taken by the State or society."

The amendment was rejected by 9 votes to 4 with 4 abstentions.

The USSR amendment was to add the words: "guaranteed by measures to create the widest possible opportunities for full employment."

The amendment was rejected by 9 votes to 4 with 4 abstentions.

The Lebanese amendment was to add the words: "and of protection against unemployment" at the end of the first paragraph of article 23.

The amendment was adopted by 8 votes to 5 with 4 abstentions.

The CHAIRMAN appointed a sub-committee, consisting of the representatives of France, Lebanon, United Kingdom, the Union of Soviet Socialist Republics and the United States, to work out a special article concerning the measures to be taken in order to ensure enjoyment of economic and social right

The meeting rose at 1.15 p.m.