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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais Wilson, Geneva,

on Thursday, 26 April 2001, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE

WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Honduras (continued)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH

ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Honduras (E/1990/5/Add.40; E/C.12/Q/HON/1; written replies to the list of issues prepared by the Government of Honduras (document without a reference number); HRI/CORE/1/Add.96) (continued)

At the invitation of the Chairperson, the members of the delegation of Honduras resumed their places at the Committee table.

The CHAIRPERSON invited the delegation of Honduras to give their answers to the outstanding questions from the previous meeting.

Mr. CARIAS (Honduras), responding to a question from Mr. Hunt, said that the Government's interim Poverty Reduction Strategy Paper (PRSP) did not invoke the Covenant but its content was compatible with the spirit of the Covenant. The PRSP was based on an analysis of poverty and of its causes and effects in the specific context of Honduras. It set clear goals, particularly in health, education and housing, and had been prepared with the help of civil society, government agencies and international cooperation.

Mr. PONCE TURCIOS (Honduras), responding to a question from Mr. Kuznetsov, said that Honduras had ratified 22 International Labour Organization (ILO) conventions. A number of them, such as Convention No. 102 on Minimum Standards of Social Security, dealt with social protection measures. Convention No. 182 on the Worst Forms of Child Labour was currently before Congress, pending ratification.

Ms. ORTEGA (Honduras), responding to various questions from Mr. Tapalia, said that Honduras had ratified the Convention on the Elimination of All Forms of Discrimination against Women and was making efforts to modify its legislation on women's rights. A law on domestic violence had been enacted, for example.

The Department of Health was developing projects on women's health and reproductive health nationwide.

Education and employment had been identified as priority areas for promoting non-discrimination against women and legislation on equal opportunities for women had been enacted.

With regard to the rights of disabled persons, the current Labour Code obliged companies to employ a certain percentage of disabled workers. Programmes for disabled children were being developed by the Honduran Institute for Children and the Family, and the Special Office for Children and the Disabled was available to help disabled persons to assert their rights.

Ms. OLMEDA (Honduras), answering a question from Mr. Malinverni, said that case law had had a great impact on the monitoring of economic, social and cultural rights because the Covenant itself had such a broad scope. Any individual could seek redress in the courts and many did so. The rights set forth in the Covenant could be invoked by individuals in court.

Free legal aid by public defenders was provided to all who needed it and there were also free legal advice centres, usually connected to universities. A number of charitable non-governmental organizations (NGOs) also provided legal assistance. The public was, however, not always aware of the existence of such institutions.

The Ombudsman received and examined allegations of violations of rights and the new National Human Rights Commission helped to defend individuals' rights.

Ms. PINEDA (Honduras), answering a question from Mr. Grissa, said that the legal framework for the protection of human rights included the National Human Rights Commission, the Office of the Ombudsman and the Special Office for Human Rights. There were also two strong NGOs that monitored human rights: the Committee for the Defence of Human Rights in Honduras (CODEH) and the Committee of Relatives of the Disappeared in Honduras (COFADEH).

In 1996 a new juvenile justice system had been introduced, including oral hearings held in private and without delay, thereby ensuring due process for young persons accused of offences. Similarly, in 2002, a new Code of Criminal Procedure was to come into force, also guaranteeing due process through oral hearings and prompt, transparent proceedings.

Mr. PONCE TURCIOS (Honduras), responding to questions from Mr. Pillay, said that he had never heard of any group working for 50 per cent of the minimum wage. The law was the law and was not subject to the whim of the employer. He wondered what the source of the allegation was.

Women had access to a number of public and private bodies to obtain help in asserting their rights, including the National Human Rights Commission, the Public Prosecutor's Office and a number of special offices.

In response to a question from Mr. Texier, concerning an apparent contradiction in paragraph 32 of the report, he said the situation was difficult to rectify since the Ministry of Labour, which was responsible for monitoring working conditions, simply did not have enough inspectors. At the same time, the maquila (assembly and finishing) sector was vital to Honduras's economy, employing around 1.2 million people, which, in a context of total unemployment and underemployment of around 28 per cent, was a significant figure. Maquiladoras were inspected if complaints were made and appropriate action had been taken in cases where violations of labour rights had been discovered. A number of companies, notably Korean ones, had been unable to rectify the situation and had been obliged to leave the country. However, there were of course other maquiladoras that had due respect for labour rights.

NGOs helped by reporting violations. However, false reports also came in from professional "informers" who did not work in the maquila sector themselves but received a fee for filing such complaints.

Lastly, he recognized that a review of social policy was needed insofar as unions tended to tolerate sexual harassment and ill-treatment.

Ms. PINEDA (Honduras), responding to a question from Ms. Barahona-Riera, said that, under the Domestic Violence Act of 1997, victims of either sex could bring a complaint before special courts. If the relationship was a consensual union, the guilty party could be expelled from the home for a period of up to 60 days. The Honduran Institute for Children and Family had shelters for women victims, which provided training and child care.

If a property was purchased jointly by a couple, it could be sold only jointly. If only one member of a couple owned the property, that person was entitled to sell it, unless there were children in the family also living in the property. In case of divorce, property was divided equally between the parties.

Ms. OLMEDA (Honduras), replying to a question from Mr. Ceausu, said that under the Constitution foreigners had the same rights and obligations as Hondurans, with two exceptions: they could not vote in elections; and nationals of neighbouring countries were not permitted to purchase property across the border, inside those countries.

Mr. EUCEDA (Honduras), also replying to a question from Mr. Ceausu, said that systematic legislative efforts were being made to support indigenous ethnic groups. For the first time, school textbooks were being produced in indigenous groups' own languages, for example, and training programmes prioritized ethnic groups' own values. The "Raíces" programme was explicitly aimed at meeting the needs of ethnic groups, with a view particularly to combating poverty.

In reply to a question from Mr. Ahmed, he said that the current Government recognized that there were problems in the country, but it had made substantial advances in education and health despite the steep increase in the population. Efforts were being made particularly in primary education, for example by depoliticizing the selection criteria for teaching posts in that sector. A second and third stage would naturally be needed in order to put an end to the bad practices that had hampered administrations in the past. His Government had accepted the challenge, however, and progress had been made in improving the quality of services to the population and, in particular, those most in need.

Mr. HUNT, following up his previous question on anti-poverty strategies, said Honduras's interim Poverty Reduction Strategy Paper (PRSP) was extremely thorough, professional and comprehensive. It was, however, for the most part silent on human rights.

The Heavily Indebted Poor Countries initiative (HIPC) required PRSPs to be approved by the World Bank and the International Monetary Fund (IMF) before a country could be eligible for debt relief. Under such circumstances, it was natural to wish to propose a PRSP that was

attractive to the country's creditors. Indeed, in a recent report to the United Nations Commission on Human Rights, the independent expert Mr. Fantu Cheru had described PRSPs as "a new form of structural adjustment" (E/CN.4/2001/56, para. 21).

He himself was concerned for the interests of the poor, as opposed to the interests of a country's creditors. That concern had been brought to the fore by a passage in Honduras's interim PRSP stating that, in the long term, structural adjustment measures should have positive effects on growth and poverty reduction, but in the short term could have negative effects on vulnerable sectors. The interim PRSP did not evaluate the effects on poverty, but indicated that the final report would do so.

The delegation had replied earlier by saying the PRSP was compatible with the Covenant. However, his question was really whether explicit consideration of the Covenant could reinforce the final PRSP and make its contents a more effective anti-poverty strategy.

Mr. CARÍAS (Honduras) said the strategy in the paper referred to by Mr. Hunt involved some risk but its aims were clear. If those aims were to be achieved, the strategy needed to be translated into an operational plan involving all development partners and taking into account the requirements of the HIPC initiative from which Honduras was hoping to benefit. In order to enhance the long-term viability of the strategy, efforts had been made to involve the political parties that would be contesting the next election.

The CHAIRPERSON invited Committee members to make comments on items 12-23 in the list of issues.

Mr. AHMED asked how many foreign banana companies were operating in Honduras, what percentage of the land they exploited, how they had acquired titles to the land in the first place and whether those land titles were legal. Noting that one of those companies was planning to introduce new labour-saving technology, he asked whether the Labour Code allowed companies to lay off workers at will.

Mr. MARTYNOV asked if the Government had any plans to extend the coverage of the social security system, which currently favoured high-income workers and covered less than a third of the population, and to make social insurance compulsory for domestic workers, casual workers and others not covered. He also asked for an estimate of the number of working children aged between 14 and 18.

Mr. TEXIER sought clarification on the figures on unemployment. According to secretariat documents, the International Labour Office gave figures of 3.2 per cent for open unemployment and 23.4 per cent for underemployment in 1997, while unofficial sources put the figure as high as 40 per cent in 1999. Like Mr. Ahmed, he was concerned about lay-offs and job-losses resulting from decisions taken abroad and the introduction of new technology, and he asked what the Government could do when multinationals took decisions that affected employment in Honduras. With regard to article 7 of the Covenant, he asked for details of how the minimum wage was set.

The use of pesticides on banana plantations and cyanide contamination near mines posed unacceptable health risks to the local population. How did the Government propose to ensure that foreign companies exploiting the country's resources complied with Honduran legislation and did not pollute the environment, or, when they did cause pollution, paid adequate compensation?

There were a number of problems in the area of trade union rights; for example, the firm Chiquita, according to a report by the International Confederation of Free Trade Unions, had laid off 5,000 workers in the wake of Hurricane Mitch and had threatened to withdraw from the country altogether if their union did not give up a number of workers' rights. The ILO had pointed out that the Labour Code permitted only one trade union per company, which was contrary to the spirit of article 8 of the Covenant. Would that be rectified in the new Labour Code that had been under discussion for some time? Would the new Code also include penalties for discrimination against trade unions and make it an offence to lay off a worker merely for belonging to a union?

Mr. SADI asked what the Government intended to do now that it had established the link between the use of pesticides and health problems such as brain damage in children and sterility. He sought assurances that it would also be taking steps to control the problem of cyanide discharges in mining operations. The rights to life and health must take priority over profits, and the developing countries should not make the mistake of valuing markets above human life.

Mr. CEAUSU sought clarification on exactly what was meant by having "some employment problem", in paragraph 38 of the report (E/1990/5/Add.40).

He had taken note of the Government's initiatives in the area of vocational training and the courses described in paragraphs 47 and 48 of the report, and asked if the figures of 21,000 men and 14,000 women given in paragraph 53 referred to people who had attended courses organized by the National Vocational Training Institute. He also wondered if there were vocational secondary schools where youngsters were taught a trade.

He asked for more details on the retroactive effect of wage adjustments mentioned in paragraph 67. How high was the minimum wage, and was all or part of it taxable? With regard to health and safety at work, he would like to know how many inspectors there were, and to which State body they reported. Was the Social Security Department obliged to shut down production if an inspector made a proposal to that effect?

The CHAIRPERSON invited the Honduran delegation to reply to the points raised by the Committee members.

Mr. PONCE TURCIOS (Honduras) said there were three transnational banana companies - one British and two from the United States - in Honduras. However, banana production, for so long vital to the country's economy, was in a state of crisis: the fruit had been replaced by coffee and timber as the country's leading export and could soon fall behind melons and seafood too. Needless to

say, the drastic fall in production had been accompanied by job losses. The leading banana exporter in the region was currently Ecuador, where prices were far lower, basically because the trade unions were not as strong there as in Honduras, where they were more powerful than in any of its near neighbours. However, with the decline in the banana industry, where the unions had always been traditionally strong, and growth in other areas such as the assembly plants, union membership was falling.

It was thanks to the trade unions in the banana industry that the Labour Code had been adopted 44 years earlier to protect workers, but there had always been problems in implementing the Code; companies had found legal ways to get round it, for instance by splitting up into smaller parts and so weakening the unions. Strong unions had pushed up labour costs but could not prevent mass lay-offs, which were perfectly legal. The first moves to reform the Code had been made in 1993, and since then indications as to their effect had been sought from both workers and employers. In a country like Honduras, the new Code, which should be finalized by the end of 2001, would be accepted only if it was based on consultations with all parties concerned. One of the most important reforms concerned article 2, paragraph 2 of the Code, which effectively restricted its application to urban workers, excluding, in particular, those working for agricultural or livestock businesses employing less than 10 people - the majority of such undertakings. The provision was clearly in breach of several ILO conventions and would be eliminated.

Under a further reform, labour rights had been extended to domestic workers. They earned more than the minimum wage but except in the rural areas domestic labour was difficult to obtain as workers were attracted by still higher wages in the factories. Another important aspect of the reform of labour legislation was the protection afforded to trade union rights, inter alia through the addition of a special chapter to protect the right of association. There were special labour courts to which workers, and in particular union leaders, could make a complaint relating to the right of association, and in theory workers could not be dismissed until the court had reached a decision. However, that was not working in practice and those mechanisms needed to be tightened up.

Companies planning to cut production offered compensation, but many workers preferred the stability of a job and benefits negotiated through collective bargaining to a lump sum. Visible unemployment stood at 5.5 per cent and underemployment at 22.23 per cent in an economically active population of 2.2 million. The population of Honduras was young, with the over 60s accounting for only 5 per cent of the economically active population. Forty per cent of the economically active population was in the formal sector. Labour statistics for Honduras were, however, often unreliable and the Government was receiving assistance from a regional programme of the Secretariat for Central American Economic Integration (SIECA) that would make it possible inter alia to obtain reliable labour and employment statistics. As to the options for bringing down unemployment, the Government had launched a number of programmes aimed at maintaining sources of employment and providing technical training for the workforce. Many companies avoided Honduras on account of its skills shortage.

The adjustment of the minimum wage was decided at the end of each year at a tripartite meeting of representatives of both sides of industry, with the Government acting as mediator. The rate was adjusted if annual inflation had exceeded 12 per cent.

As Mr. Texier had noted, the Labour Code did indeed permit only one trade union per company. The fact was that the workers were opposed to multiple unions, since that situation could be exploited by the employers. Trade union membership, at 200,000, was substantial, but had stagnated for some seven years, while the population had grown.

In an attempt to prevent lay-offs, which were legal, the Government was pursuing a policy of social dialogue to encourage both sides to reach agreement and, wherever possible, obviate them. The Government also encouraged dialogue on labour law reform. The labour legislation of Honduras, unlike that of many other countries, did not specify the sanctions to be applied in the case of infringements, so penalties generally took the form of fines, which were often not enforced. The best guarantors of trade union rights were the trade unions themselves, supported by the competent authorities.

Regarding the provision for the retroactive payment of wage adjustments, wage negotiations often lasted for two years or more and the purpose was to protect workers against possible delaying tactics on the part of the employers.

The National Vocational Training Institute and the technical colleges offered courses in basic occupational skills. Given the severe shortage of skilled labour in the country, the situation was admittedly not satisfactory. Vocational training courses were also available to members of the armed forces.

Turning to health and safety at work, he said that the country had only 14 poorly trained inspectors. The Government was currently setting up a new collective system for the settlement of industrial conflicts which it hoped would facilitate the work of both the inspectors and the courts. Inspectors were invested with extensive powers and could legally enter industrial premises, accompanied by the police, at any time. Industrial development zones presented a problem of access for inspectors and the Government was launching a programme to station inspectors within such complexes. Nine additional inspectors were needed for that purpose, but the necessary resources were not currently available. Inspectors had the power to order a suspension of industrial operations if life and limb were in jeopardy.

Mr. MEDINA (Honduras) said that the social security system had been established in 1995. Since then special funds had been emerging for some groups of professionals such as military personnel, teachers and public employees, thus fragmenting the system and bringing it to the brink of collapse. The Government was considering various remedial measures such as scrapping the monetary ceiling and assigning a more substantial role to the State. Discussions were proceeding with all the parties concerned.

Mr. CARÍAS (Honduras) stressed that health was a matter of the utmost concern in Honduras, especially the rise in the incidence of contagious diseases. As far as pollutants were concerned, significant progress had been made on the legal front. A bill was before Congress aimed at improving hygiene and sanitation in the country. An inter-agency committee had been set up, as well as a centre for pollution research. The Government had plans to promote occupational health in accordance with ILO standards. Complaints from workers were to be encouraged in order to facilitate law enforcement, and greater emphasis would be laid on monitoring and supervision. The Ministry of Health, in response to public demand, had been concentrating on primary health care. As far as pesticides were concerned, the long-term consequences were not yet clear. Responsibility did not lie exclusively with the Ministry of

Health.

Mr. MEDINA (Honduras) hoped that members of the Committee had not gained the erroneous impression that health had been sacrificed to economic interests. The Government had taken various measures to protect the environment, including impact studies and environmental rehabilitation strategies. The days when companies could freely pollute natural resources, putting human health and life at risk, were over. There was no denying that pollution was still taking place, but new legislation and new powers would ensure its monitoring and containment.

Ms. CASTELLON VILLELA (Honduras), replying to a question put the previous day, explained that the Government had encouraged the development of special industrial zones as a means of job creation and to promote the transfer of technology.

Regarding tax on minimum wages, she said that economic structural adjustment programmes included social compensation. There was no direct tax on income at the minimum wage level, though of course everyone was subject to indirect taxation, notably sales tax. VAT was not levied. A current bill envisaged raising the tax ceiling.

Mr. PONCE TURCIOS (Honduras) added that there were six categories of minimum wage by industrial sector and two bands within each category, one for companies with 1 to 15 employees and one for companies with 16 or more employees. Two sets of tables were published monthly for nominal and real minimum wages, computed on the basis of the basket of basic commodities.

Mr. TEXIER suggested that it should be possible to verify in law whether there were genuine economic grounds for collective dismissals. In his country, judges could impose severe penalties and award substantial compensation to workers if such were found not to be the case. With regard to the shortage of skilled labour, he expressed surprise at the apparent lack of plans for a vigorous policy of vocational training with support from bilateral or multilateral agencies. He was startled to hear that the country had only 14 labour inspectors. Every effort should be made to increase their numbers and train them to perform the dual function of health and safety inspectors and advisors.

An ILO Committee of Experts had called on several occasions for lifting of the restriction on trade union membership for nonnationals to 10 per cent, as it was incompatible with the ILO Convention on the right of association. Would that restriction be lifted?

Mr. MARTYNOV noted that in the rural areas, especially in the west of the country, 96 per cent of the population lived below the poverty line. He wondered whether the Government planned to establish a programme of social security measures to deal with that problem. He asked for clarification concerning the importance accorded by the authorities to child labour.

Mr. CARÍAS (Honduras) said that there were two different procedures for the settlement of collective disputes, which were economic, and individual disputes, which were juridical. While individual disputes were settled through the court system, collective disputes were dealt with by the labour administration. The first step in the settlement of collective disputes was mediation and conciliation, the next stage being arbitration (voluntary or compulsory) or strike action. The labour administration was not empowered to deal with individual disputes.

Collective lay-offs were authorized by the Ministry of Labour and Social Security. Collective strike action could be legally taken only after other remedies had been exhausted and a strike called by a trade union. It was illegal for workers simply to walk out; employers reporting such action were authorized to dismiss the offenders. Illegal stoppages were more common in Honduras than proper strike action, but in most cases the workers were pardoned without recourse to a collective lay-off.

Honduras was interested in building up its stock of skilled workers. One important aspect was education, in the broad sense of the term, for which the country sought assistance from the international community. The admittedly discriminatory provision that 90 per cent of a trade union's members must be Honduran had been removed in the draft amendments currently under consideration. The provision that foreign workers could not earn more than 15 per cent of the total wage bill should also be expunged from the legislation.

Mr. PONCE TURCIOS (Honduras) said that, with the help of civil society, the commitment of the Government, and community participation, policies were being formulated for inclusion in the poverty reduction strategy to reduce the excessively high figures of 57 per cent and 75 per cent of households living below the poverty line in urban and rural areas respectively.

Mr. MEDINA (Honduras) explained that the Honduran Social Security Institute was responsible for the social security system, which was intended exclusively for workers who received a wage for services rendered. People living below the poverty line who did not fall into that category were dealt with under a special regime and could receive social assistance essentially in the form of medical care in hospitals. However, the authorities were working on plans to improve the situation.

Mr. PILLAY said that it was clear that poverty had increased and that the country's poverty reduction strategy was not working. While the official figure for those living below the poverty line was 57 per cent, the true figure was reportedly closer to 80 per cent, with a staggering 96 per cent in the rural areas, where most indigenous people lived. The 1999 FIAN International report claimed that, despite a slight improvement in the economy, the actual poverty rate was rising sharply. The authorities also practised forced evictions - which they had omitted to mention in the report - in violation of the Committee's General Comment No. 7 and the provisions of the Covenant.

The indigenous population was obviously discriminated against. The United States State Department reported that they were barred from participating in decisions affecting them and that the courts commonly denied them justice, displaying a bias in favour of affluent, influential non-indigenous inhabitants. They were also dispossessed of their lands. In addition, the 1998 World Health Organization report "Health in the Americas" stated that the indigenous population suffered enormous environmental problems, while being denied basic infrastructure services or subsistence economies. In that, Honduras was violating not only the Covenant, but also its own

Constitution.

With the huge housing deficit, which the authorities had candidly admitted, over 6,000 people were reportedly living in macro-shelters in Tegucigalpa alone, while the immense overcrowding and poor hygienic conditions in the Colonia macro-shelters made the residents feel that the Government had forgotten them. There, too, Honduras was violating article 128 of its Constitution concerning the right to decent housing. He would like the delegation to say exactly how the Government intended to address those problems.

Mr. ATANGANA asked what action had been taken regarding the 3,000 complaints of domestic violence received from women in 1998, which had been shelved owing to the lack of special courts to handle them.

Mr. RIEDEL said that the figures for street children were alarming. While the written replies had mentioned a national plan and other measures to combat the problem, he wished to know what active steps were being taken. Could the delegation say what benchmarks the authorities were offering the Committee that it could use when it came to consider its next report?

Mr. WIMER-ZAMBRANO said that what caused him most concern was the fact that no mention had been made of specific programmes to deal with the housing deficit in Honduras. He would like more information about what was being done in that area.

Mr. SADI observed that Honduras was conducting an extensive deforestation campaign, which was evidently having an enormous impact not only on the environment and ecosystems, but also on all aspects of the indigenous people's lifestyle. He would like to know whether the Government was fully aware of that impact, and sought assurances that it would act to reverse it in due course.

Ms. BARAHONA-RIERA said she was most concerned at the plight of street children, especially with regard to child prostitution, which had become something of an organized industry in Honduras, children often being virtually exported there for the purpose. While she applauded the national plan for street children, she was more interested in the proportion of national budget devoted to it. The country's proposed entry into the free trade area, while creating some new sources of employment, would also increase poverty and marginalization. Legal structures were all well and good, but the economic content was very important.

Mr. MEDINA (Honduras) said that the Government of President Reina had set itself a moral agenda and had done more than any previous administration to recognize the land rights of the indigenous people, especially the Maya Chorti population. It had committed itself to acquiring land that was already in private hands because it lacked State land. The indigenous people were claiming the right to lands in regions where they had lived traditionally. However, problems arose when land belonging to the State, communal estates (ejidos) or private

individuals was unavailable in the region concerned. Land had been allocated to the indigenous sector on the basis of rights deriving from tradition. However, the law had allowed private individuals to buy or lease those lands.

The present Government, like the previous one, had set itself the task of providing the indigenous and black communities with the land needed for their agriculture. However, sometimes conflicts arose among them in their claims for equal rights. The law was the same for all Hondurans and all foreigners living in the country, and case law concerning disputes had been developed by the courts. The Government was already endeavouring to provide the necessary land and had no inclination to dispossess blacks and Indians. Popular movements had brought home to it its responsibility for that sector of the population, highlighted by the fact that the majority of Hondurans had some indigenous blood.

The macro-shelters had been built as temporary residences for the victims of Hurricane Mitch, and the Government had a comprehensive housing construction plan whereby people were transferred from the shelters to their own low-cost homes. Some, however, did not wish to be rehoused because, despite the supposedly appalling conditions in the shelters, they had access to education, public services and transport. The conditions might not be of the best, but all the competent ministries were involved in remedying the situation. Incidentally, not all the inhabitants of the shelters had been hurricane victims; some of them had been living in abominable conditions on riverbanks.

The meeting rose at 1 p.m.