

**ECONOMIC
AND
SOCIAL COUNCIL****CONSEIL
ECONOMIQUE
ET SOCIAL**E/CN.4/SR.14
5 February 1947
ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

SUMMARY RECORD OF THE FOURTEENTH MEETING

Held at Lake Success, New York, on Tuesday, 4 February 1947, at 2:00 p.m.

Present:

Chairman:	Mrs. Roosevelt	(United States of America)
Vice-Chairman:	Mr. Chang	(China)
Rapporteur:	Mr. Malik	(Lebanon)
Members:	Mr. Hodgson	(Australia)
	Mr. Kaminsky	(Byelorussian Soviet Socialist Republic)
	Mr. del Rio	(Chile)
	Mr. Ebeid	(Egypt)
	Prof. Cassin	(France)
	Mrs. Mehta	(India)
	Mr. Ghani	(Iran)
	General Romulo	(Philippine Republic)
	Mr. Tepliakov	(Union of Soviet Socialist Republics)
	Mr. Mora	(Uruguay)
	Mr. Ribnikar	(Yugoslavia)
Alternates:	Mr. Lebeau	(Belgium)
	Mr. Guardia	(Panama)

Representatives of Specialized Agencies:

Mr. Hutchison	(International Labour Organization)
Mr. Carnes	(UNESCO)

Non-Governmental Organizations:

Consultant:	Mr. Teper	(American Federation of Labor)
Secretariat:	Mr. Humphrey	(Secretary of the Commission)

Continuation of the Debate on the Contents of the Draft International Bill of Rights (Documents E/CN.4/W.18 and E/CN.4/11).

The CHAIRMAN called the meeting to order. At the previous meeting the representative of the Union of Soviet Socialist Republics had asked that

/certain items

certain items on the list of rights drawn up by the Secretariat (document E/CN.4/W.18) be excluded from the Bill of Rights, and she now asked the Commission for its opinion on this subject.

Mr. MORA (Uruguay) felt that the right of citizenship should be extended in such a way as to grant human beings a certain degree of world citizenship, and to offer the individual the possibility of participating personally in the international organization of the Community of Nations. The proposed right to petition the United Nations was insufficient. The right to freedom of movement ought also to include the freedom to change one's nationality.

Mr. EBEID (Egypt) noted that in the course of the debate no mention had been made of the duties of the individual, which were a corollary to his rights. Moreover, the Commission ought merely to define the rights in a general way, without going into details; thus controversy would be avoided.

The CHAIRMAN thought that freedom of movement, a right inherent in the human person, ought to be understood only as the ability to leave a country freely. This right would be limited by the immigration laws of the receiving country.

Mr. DUKES (United Kingdom) noted that it was difficult to implement the right to work without making it compulsory for unemployed members of the community to work. Freedom of movement ought also to be defined with the utmost care, and a nation's right to claim the extradition of its criminals ought to be preserved. Moreover, freedom of movement was naturally limited by the absorptive capacity of receiving countries, which had first to find employment for their own nationals.

In regard to the rights of the individual, it was quite legitimate to list certain obligations, without which the ratification of the International Bill would give rise to serious difficulties.

Mrs. MEHTA (India) drew the Commission's attention to the draft resolution she had submitted in which none of the rights granted released the individual from his obligations towards the State. By freedom of movement she understood

not only the freedom to emigrate, but also the freedom to move from one place to another within the boundaries of the State, a right not at present respected in all countries of the world.

Mr. TEPLIAKOV (Union of Soviet Socialist Republics), speaking on the right to work, said that the moral and material conditions necessary to assure it ought to be provided. There could be no right to work without a corresponding duty to the community. In this respect, he cited Article 12 of the Soviet Constitution, which stipulated that in the Soviet Union work was a "duty and an honour for every able-bodied citizen, in accordance with the principle: no work, no food." He asked that the Bill include the individual's obligation to work for the community, by which he meant his country as well as the United Nations.

Passing on then to the rights listed in Section 3 (food, housing), he observed that the implementation of these rights depended on factual circumstances.

Mr. MALIK (Lebanon) was interested chiefly in the problem of personal liberty. He considered the Yugoslav representative's statement that the social principle ought to take first place as inconsistent with his other statement that freedom was to be found in harmony between the individual and the community.

He urged the Commission to adopt the following four principles, which were in danger of being repudiated:

1. The human person is more important than the racial, national, or other group to which he may belong;
2. The human person's most sacred and inviolable possessions are his mind and his conscience, enabling him to perceive the truth, to choose freely, and to exist;
3. Any social pressure on the part of the State, religion or race, involving the automatic consent of the human person is reprehensible;

/4. The social

4. The social group to which the individual belongs, may, like the human person himself, be wrong or right: the person alone is the judge. The Bill of Rights, he concluded, could not without prejudice to itself, disregard these four principles.

Mr. TEPLIAKOV (Union of Soviet Socialist Republics) opposed these principles. He was against the Commission's considering the principles stated and reserved the right to comment on them after studying them.

Mrs. MEHTA (India) did not think these principles should give rise to any controversy; the point was to study measures likely to uphold the dignity of the human person.

Mr. GAMI (Iran) felt that freedom of expression and of opinion were possible only in countries where the standard of education was high enough to allow the masses to form a sound opinion, and so he wished the United Nations to take steps first of all to eliminate illiteracy and promote education, by such means as granting financial assistance to backward countries.

The CHAIRMAN felt that the authors of the Bill had the duty to guarantee the fundamental liberties of the individual, and on these grounds, she considered the Lebanese representative's statement of particular importance.

She then asked the Commission to discuss more fully, Section 3 of the list of rights drawn up by the Secretariat (Social Security), since any observations might be useful to the group appointed to draw up the preliminary draft Bill.

Mr. DUKES (United Kingdom) disagreed with Mr. Malik, for he did not think that there could be unrestricted individual liberty in any modern community.

As to Mr. Malik's fears, Mr. Dukes did not think it wholly possible, in an organized society, to prevent groups from exercising a certain pressure upon individuals. That was the price which had to be paid for freedom of association, the necessity of which no one would contest.

/Considering all

Considering all the items in Category 3 (Social Security) of the list of the various types of rights to be included in the draft International Bill of Rights, he said it would be useless to try to define the liberties of the individual without taking account of his obligations towards the State or benevolent organizations. On the other hand, it was, he presumed, clear in the minds of all that individual liberties included the liberty to exercise pressure upon Governments in order to achieve the application of the various items in the third category. He presumed also that all the members of the Commission thought individuals ought to have the right to replace these governments if they failed to respect what might be called the collective will and collective obligations.

In conclusion, he stressed the co-existence and closely knit interdependence of the State and of the individual. It was the combination of these two elements, their reciprocal effects and influences which could produce the highest civilization.

Mr. CASSIN (France) shared Mr. Duke's views and propounded the principle that the human being was above all, a social being. Parallel with the list of the rights of the individual, they ought, no doubt, to draw up a list of the rights of the community.

He warned against the danger of placing too little importance upon social rights. With regard to Item (f) of Category 3, he wished to see a distinction made between freedom of instruction and right to education.

Mrs. MEETA (India) considered the expression "right to health care" would be the right one in Section 3, as corresponding to the State's duties towards the individual.

Mr. HODGSON (Australia) thought, that in spite of the slight differences in the opinions expressed, it could be inferred from the present debate that the members of the Commission all recognized that the individual's rights ought to be subordinated to those of the national community and of the international community. This principle could serve as a guide for the

Drafting Committee.

Mr. TEPLIAKOV (Union of Soviet Socialist Republics) noted, with reference to Mrs. Mehta's remarks, that the expression "right to health care", was not, perhaps, entirely felicitous inasmuch as this right had never been disputed. Concerning Item (e), he personally wished to suggest the expression "right to maintenance in case of old age, sickness, or other incapacity to work". Item (d) would read only: "protection against unemployment."

Mr. MALIK (Lebanon) wished to stress the fact that he had not used the word "individual" but the expression "human person" in his previous intervention.

Coming back to the Charter's reference to the dignity and worth of the human person, he explained that he wished to give greater meaning to this expression. It would indeed be a dead letter if they refused to admit that the human person had the right to choose in full liberty, that is, without being exposed to reprisals or persecutions.

He was in complete agreement with Mr. Dukes' remarks about the price which had to be paid for the advantages derived from the State.

In conclusion, he laid down the principle that the human person had not been created for the sake of the State, but that the State existed rather for the sake of the human person. The Bill of Rights ought, therefore, to subordinate everything to the interest of the human person, even the State.

Mr. CYCLO (Ghana) warned against the danger of producing a document which would ill accord with the times owing to its being out of time with the spirit and atmosphere of the post war era; he would like to see the expression "freedom from want" appear somewhere, either in the preamble or in the text itself.

Mr. CASSIN (France) noted that there was one right which was absolutely unconditional, namely, the right to freedom of conscience. He stressed this

/point, on

point, on which he thought the Lebanese representative was absolutely right, because it was this right to the freedom of conscience which gave the human person his worth and dignity.

The CHAIRMAN thought the members of the Commission were now ready to study the form in which the Bill should be presented. She had observed in the course of the discussion that everyone seemed in favour of a general bill or declaration incorporated in a draft resolution to be submitted to the Assembly.

Mrs. MEHTA (India) thought a mere declaration would not be sufficient and that provision would have to be made for means of implementation. What was required was an Act of the General Assembly which would place upon the Assembly the main responsibility for applying the rights.

The CHAIRMAN drew the Commission's attention to the United States proposal that the Commission should prepare an International Bill of Rights which the Assembly could adopt in the form of a resolution providing that the Commission on Human Rights would prepare one or more "Conventions on Human Rights and Fundamental Freedoms."

Mr. HODGSON (Australia) noted that the Assembly had the power to pass resolutions but not Acts, and that it was for the various Governments to implement these resolutions.

The CHAIRMAN thought that the provisions of the Commission's draft resolution could be of a general nature and that it would be sufficient if they were adopted. It would not be necessary to specify each nation's attitude in regard to every one of the points adopted.

Mr. CHANG (China), supported by Mr. TEPLIAKOV (Union of Soviet Socialist Republics), thought the Commission ought, first of all, with the assistance of the Drafting Committee, to draw up a Bill of Rights incorporated in a ... draft resolution.

Mr. CASSIN (France) shared this view and suggested that the resolution

/might contain

might contain an invitation to the States to incorporate in their Constitutions or in their national law such items of the Bill as were not already included therein.

He also advocated adopting the principle of an organic act which could be amended by a two-thirds majority and which would be a more or less independent instrument, capable of being amended by the General Assembly at future sessions.

He appealed to the members of the Commission not to follow the old conventional school of thought, or on the other hand, merely to pass an enthusiastic bill lacking concrete value.

The CHAIRMAN noted that the Commission was unanimous in its decision to instruct the Drafting Committee to draw up the Bill and to incorporate it in a draft resolution to be submitted to the Economic and Social Council.

The next day's meeting would be devoted to a study of the means of implementation.

The meeting rose at 5:00 p.m.
