

COMMISSION ON HUMAN RIGHTS

SECOND SESSION

SUMMARY RECORD OF TWENTYSEVENTH MEETING

Held at the Palais des Nations, Geneva, on Wednesday,
3 December, 1947, at 3 p.m.

Present:

Chairman: Mrs. Franklin D. Roosevelt (United States of America)

Members: Col. W.R. Hodgson (Australia)
Mr. F. Dehousse (Belgium)
Mr. A.S. Stepanenko (Byelorussian S.S.R.)
Mr. O. Loutfi (Egypt)
Mr. R. Cassin (France)
Mrs. Hansa Mehta (India)
Mr. A.G. Pourevaly (Iran)
Mr. M. Amado (Panama)
Mr. M. Klekovkin (Ukrainian S.S.R.)
Mr. A.E. Bogomolov (U.S.S.R.)
Lord Dukeston (United Kingdom)

Specialized Agencies: Mr. J. de Givry (I.L.O.)
Mr. J. Bessling (I.L.O.)
Mr. J. Havet (UNESCO)
Miss M.L. Barble (Preparatory Commission for the International Refugee Organization)

Non-Governmental
Organizations:

Category A:

Mr. A. van Istendael (International Federation of Christian Trade Unions)
Mr. P.V.S. Serrarens (International Federation of Christian Trade Unions)
Mr. A.R. de Clery (Interparliamentary Union)

Non-Governmental
Organizations:

Category B:

Mr. O.F. Nælde (Commission of the
Churches on International Affairs)

Mlle. de Romar (Union Internationale
des Ligues Feminines Catholiques.
Union Catholique Internationale
de Service Social)

Mr. A.G. Brotman (Co-ordinating Board
of Jewish Organizations)

Mr. C. Pilloud (Comite Internationale
de la Croix-Rouge)

Miss van Eeghen (International Council
of Women)

Mrs. Myrdal (International Federation
of Business and Professional Women)

Secretariat:

Professor J.P. Humphrey
Mr. Edward Lawson

1. Statement regarding Private Meeting

The CHAIRMAN made a statement regarding the private meeting of the Commission held that morning, which would be given to the Press. The Commission on Human Rights had considered in private meeting the confidential list of communications concerning human rights prepared by the Secretariat, in accordance with the resolution of the Economic and Social Council of 5 August 1947. The list had contained a brief indication of the substance of each communication, without divulging the identity of the authors.

The Commission had decided that, in accordance with the suggestion made by the Economic and Social Council, it should at each session appoint an ad hoc committee to meet before its next session for the purpose of reviewing the confidential list of communications, and of recommending which of these communications, in original, should be made available to the members of the Commission on request.

The Commission had decided that such an ad hoc Committee should be appointed to perform a similar function during the present session.

The Commission had further resolved that, in addition to the functions of this ad hoc committee suggested by the Economic and Social Council, it should also submit a report on the list of communications under (a) of the resolution of the Council to the Commission on Human Rights together with any recommendations it might deem appropriate.

The Chairman of the Commission on Human Rights had appointed the representatives of the following states as members of the ad hoc committee: Chile, France, Lebanon, the USSR and the USA.

2. Document prepared by the United Nations War Crimes Commission

Professor HUMPHREY (Director of the Human Rights Division) directed the attention of Representatives to Document E/CN.4/29, regarding the collection and publication of information concerning human rights arising from the trials of war criminals. The task of collecting information had been undertaken by the UNWCC, who had prepared the Document just distributed to the representatives. He pointed out that, as the Document was incomplete owing to the fact that war crimes trials were still continuing, it had not yet been given wide distribution.

The CHAIRMAN said the question to be settled was whether to request that the present document be published or to defer its publication until the work was completed.

Colonel HODGSON (Australia) considered it would be appropriate if the Commission adopted the Document as an official one and published it immediately. It might be some years before the UNWCC could complete its work and, in his opinion, additional information could be added as supplements or annexes to the main Document.

Mr. CASSIN (France) pointed out that the Document did not contain any decisions reached by Eastern European Tribunals and felt that it would be wiser to defer publication for three

months, to allow time to incorporate information on these Courts. He agreed that thereafter additional information could be added in the form of annexes.

Mr. DEHOUSSE (Belgium) said he thought the Document was not only a useful one from the point of view of the Commission's work, but would in the future prove of great scientific value. He proposed that the Commission should express its thanks to the UNWCC for the good work done.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said that, as the French translation of the Document was not yet available, he found it difficult to come to a decision regarding publication. He was also reluctant to agree to the proposal of the Belgian Representative, to send an expression of thanks to the UNWCC.

The CHAIRMAN suggested that the document, together with the Year Book on Human Rights (Item 8 of the agenda), might be referred to a Committee for consideration.

Mr. STEPANENKO (Byelorussian S.S.R.) agreed with Mr. BOGOMOLOV's remarks and felt that a decision should be postponed until the representatives were familiar with the contents of the Document. He did not think it was necessary at that stage to appoint a committee to study it.

The CHAIRMAN put to the vote the proposal to appoint a Committee to study the Document prepared by the UNWCC and the Year Book on Human Rights, and to make recommendations to the Commission. The proposal was rejected by 4 votes to 3, with one abstention. She stated that consideration of the Document would therefore be postponed to allow time for study by the representatives.

3. Report of the Drafting Committee (Continuation of Discussion)

Colonel HODGSON (Australia) felt that a great deal of confusion had been evoked by the terminology used in the previous

day's meeting, particularly as to the terms "declaration" and "bill". He was of opinion that the Commission's Terms of Reference did not require it to draft a Declaration of Human Rights. The Draft Declaration presented by the Drafting Committee was, in his opinion, equivalent to a preamble to a Bill of Rights, and as such it should contain a statement of general principles to cover the whole range of human rights and fundamental freedoms. He maintained that the Commission's task was to draft a Bill of Human Rights, not a Declaration which, he felt, entailed no legal obligations and would not in any way affect the lives of men and women unless translated into concrete action. In his opinion, an international bill was a law in both the domestic and international fields, and no executive or legislative organ of a government would be able to override its provisions. It was the Bill of Human Rights which should be submitted to Member Governments, in order that it might be seen whether its contents were in conflict with national legislation and whether new legislation to comply with its provisions would be necessary. Colonel HODGSON reminded the representatives that the Commission's work would continue for some time, as sufficient information was not yet available on certain subjects, but he felt that every effort should be made to carry on as far as possible in conformity with agreed principles. He considered that the Bill would be a great historic document, constituting a landmark in the progress and well-being and happiness of mankind, and that its preparation should not be delayed. He maintained that it would be difficult for the Commission to draft a precise declaration of general principles without first knowing the contents of the Bill, and foresaw that difficulties of interpretation might arise, if the Declaration were drafted before the Bill.

Regarding the question of implementation, Colonel HODGSON felt that some confusion of ideas existed. In his opinion, the only effective machinery for implementation of the Bill would be the establishment of an International Court of Human Rights, a suggestion that was receiving increasing support from all over the world. That Court would provide an opportunity for appeal, should redress in national courts be denied. He would support the proposal of the Belgian representative to establish working parties, if the first working party were to deal with the Bill of Rights, and the two subsequent ones with the Declaration and implementation.

The CHAIRMAN said that she understood that a bill did not become law in the international field until it was put into the form of a treaty or a convention. A convention required ratification by governments, after which its contents became law. That explained the use of the term "Convention" by the Drafting Committee.

Mrs. MEHTA (India) said she desired to see the International Bill of Rights become part of both international and domestic law. Most of the fundamental human rights had been incorporated by her Government in the Constitution which had been formulated, and after ratification they would become part of the national law. She was of opinion that the Bill should be in the form of both a Declaration and a Convention. She agreed with Colonel HODGSON that the Declaration should contain nothing which would not be implemented and felt that an article or clause should be inserted, either in the Declaration or in the Preamble, to the effect that the rights therein set out were to be implemented by the Member States of the United Nations. She felt that adequate machinery for implementation already existed in the International Court of Justice, and was opposed to the idea of creating new machinery.

Mr. POGOMOLOV (Union of Soviet Socialist Republics) opposed the Belgian representative's proposal to establish Working Parties before the Commission had studied the Report of the Drafting Committee. Agreement had not yet been reached on the essential principles of human rights and there was, therefore, no basis on which Working Parties could work. He stated that the Soviet Union Delegation could, however, agree to consideration being given to the Draft Declaration contained in the Drafting Committee's Report. Regarding the Draft Convention, he reserved the Soviet Union Delegation's right to speak at a later stage of the Commission's work. He then moved that the Commission proceed without delay to consider the suggested "Declaration on Human Rights" submitted by the Drafting Committee and postpone the present discussion until after the Draft had been considered.

Mr. AMADO (Panama) said his Government was not opposed to the drafting of one or more conventions, as the Commission might decide, or to the creation of machinery to implement such conventions, but in his opinion its first task was to draft a Declaration of Human Rights. He did not agree with the contention that a Declaration imposed no obligations on its signatories, and felt it was hardly possible that governments would appoint representatives to the Commission and afterwards disclaim all responsibility for its work. He warmly supported the proposal and the views of the United States representative.

Lord DUKESTON (United Kingdom) directed the attention of the Representatives to the original Terms of Reference of the Commission established by the Economic and Social Council at its meeting in London on 16 February 1947. He submitted that the Terms of Reference established an order of priority for the work of the Commission and that its first task was to produce a Draft International Bill of Human Rights, which would become a legal

document and which could be implemented. He felt it was important to continue to use the term "bill", which had a significance for the ordinary person not possessed by the terms "declaration" and "convention". The question of a preamble was one on which he had an open mind. He had received an impression that some representatives favoured the idea that a declaration was an alternative to a bill, and he trusted that there was no support for that view. He proposed that the Commission should proceed to the preparation of a Draft Bill of Human Rights. This necessitated the alteration of the Resolution proposed by the United Kingdom. The words "to the preparation of a Draft Bill of Human Rights" should be inserted in place of "Draft International Convention". He requested the Chairman to give a ruling on the Terms of Reference.

Mr. CASSIN (France) thought that no detailed convention could replace a declaration of general principles and he felt that agreement on those principles could be reached by the Commission. Problems existed, such as the questions of nationality, minorities, agreement on the solution of which would be difficult, but he felt that the drafting of a Declaration to include fundamental freedoms could be done immediately. While agreeing with the order for consideration contained in the Belgian representative's proposal, he considered that in practice no great difference existed between the Belgian proposal to create three Working Parties and the Soviet Union representative's proposal to deal first with the Declaration. He was of opinion that the three parts of their work, the Declaration, the Convention and implementation, formed one entity.

Mr. KLEKOVKIN (Ukraine) felt it was extremely difficult at that stage to come to a decision. In his opinion it would be difficult to agree to the United Kingdom proposal to draft a

convention, because a convention entailed preliminary agreement as to principles; those principles had not yet been discussed by the Commission. For the same reason he opposed the Belgian proposal. He proposed that the Commission should start work on a Draft Declaration and that the question of drafting a convention should be laid aside for the time being.

The CHAIRMAN pointed out that although the Terms of Reference specifically mentioned an International Bill of Rights, they did not say what form such a Bill should take. She reminded representatives that the Draft Report of the Drafting Committee included not only a Declaration but Conventions, and she maintained that the two points should be considered simultaneously by the Commission.

The meeting rose at 6 p.m.