

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.208

3 May 1951

69

ENGLISH

ORIGINAL: ENGLISH and FRENCH

Dual Distribution

COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 19 April 1951 at 3 p.m.

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Present:

Chairman:

Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. VALENZUELA
China	Mr. YU
Denmark	Mr. SORENSEN
Egypt	AZMI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMIN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. RUSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MOROSOV
United Kingdom of Great Britain and Northern Ireland	Miss BOWIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. GIASULLO
Yugoslavia	Mr. JEVREMOVIC

Representatives of specialized agencies:

International Labour Organisation	Mr. JENKS
United Nations Educational, Scientific and Cultural Organization	Mr. SABA
World Health Organization	Mr. BERTRAND

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER
International Federation of Christian Trade Unions	Mr. EGGERMANN

Category B and Register

Catholic International Union for Social Service	Miss de ROMER
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. BERNSTEIN Mr. MOWSHOWITCH
International Council of Women	Miss van EEGHEN
International Federation of University Women	Miss ROBB
International Union of Catholic Women's Leagues	Miss de ROMER
Pax Romana	Mr. HABICHT
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD Mr. RIEGNER
World Union for Progressive Judaism	Mr. WOYDA

Secretariat:

Mr. Humphrey	Representing the Secretary-General
Mr. Das	Secretary to the Commission

INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda):

- 1) Inclusion in the Covenant of provisions concerning economic, social and cultural rights (continued) (E/1681, Annex III and E/CN.4/353/Add.3, pages 9-10, E/CN.4/364 and Corra. 1, 2 and 3 and Adda. 1, 2 and 3, E/CN.4/513, E/CN.4/515 and Adda. 1-17, E/CN.4/525, E/CN.4/527, E/CN.4/529, E/CN.4/530, E/CN.4/534, E/CN.4/537, E/CN.4/538/Rev.1, E/CN.4/539, E/CN.4/541, E/CN.4/542, E/CN.543, E/CN.544, E/CN.545, E/CN.547, E/CN.548)

The CHAIRMAN requested the Commission to resume its consideration of item 3(b) of the agenda, and drew attention to an amendment to the French draft resolution (E/CN.4/545/Rev.1) submitted by the United Kingdom delegation (E/CN.4/548). If there were no objection, he would accede to the request of the representative of the International Confederation of Free Trade Unions to leave to make a statement.

There being no objection,

Miss SENDER (International Confederation of Free Trade Unions)

said that the Institution of Non-Governmental Organizations, which would be largely founded on precedents, was still in process of formation. It would therefore be most unfortunate if the precedent created by the Commission when it had invited non-governmental organizations to attend and make statements before the working party set up in 1947 on the question of the bill of rights, were now to be reversed. Needless to say, the non-governmental organizations could not impede the proceedings of the proposed working party, nor would they fail to respect the confidential nature of its discussions. It would be noted that at the present session of the Commission labour interests were represented only by non-governmental organizations. Consequently, their exclusion from the meetings of the working party would not be in the best interests of public relations, in which field the non-governmental organizations were the most effective agents. To exclude them would be a

retrograde step quite out of keeping with the degree of understanding that the non-governmental organizations had shown for the difficulties with which the Commission was confronted in connexion with the subject under discussion. It would be wrong, she submitted, having regard to the possible extent of the contribution that non-governmental organizations could make to the work of the working party, to treat them like the general public. She therefore hoped that the Commission would be able to devise a solution which would enable them to attend the important meetings of the proposed working party.

The CHAIRMAN announced that an amendment submitted by the Egyptian delegation (E/CN.4/547) would shortly be circulated to the Commission.

Mr. VALENZUELA (Chile) found it extremely interesting that the relations between United Nations bodies on the one hand and the specialized agencies and non-governmental organizations on the other were being publicly discussed for the first time.

In support of the proposal that the Commission should sit privately as a working party attended by the representatives of the specialized agencies, it had been argued that such a procedure would make it possible to discuss matters with greater frankness and freedom, and would therefore be more likely to lead to constructive results. However, the Chilean delegation did not consider it necessary for the members of the Commission to meet behind closed doors in order to speak freely and frankly; on the contrary, their statements should be quite uninfluenced by the presence or absence of the public. It therefore wished to declare its opposition in principle to private meetings, although it would defer to the wishes of the majority if the latter was in favour of adopting such a procedure.

Reference had been made in the course of the discussions to the collaboration of experts. In that connexion, it was necessary to guard against excessive specialization, which would ultimately turn the United Nations into a sort of mediaeval monarchy, devoid of any real authority,

but surrounded by vassal institutions exercising the rights of the central organization in the practical field. While experience had shown that specialized bodies had survived the League of Nations, it was certain that no specialized agency could hope to continue in existence if the United Nations ceased to be.

The assistance rendered to the United Nations by the specialized agencies could not in any way be regarded as a sort of special favour on their part. In the discussion of international problems, it could not be claimed that any one organization rendered service to any other. Each within its own orbit did the duty incumbent on it. It was inconceivable that a specialized agency could even contemplate refusing to co-operate in the common task on the pretext that it would not be enjoying privileged treatment.

He wished therefore to maintain his amendment to the French draft resolution, and further to point out that, while it was true that his amendment did not entirely accord with rule 74 of the rules of procedure, it should not be overlooked that rule 76 authorized the Commission temporarily to suspend any other rule.

The CHAIRMAN was certain that all members of the Commission were anxious to have the co-operation of the specialized agencies in dealing with the problem under consideration. So far as the International Labour Organisation was concerned, it was well known that the Director-General of the International Labour Office was most anxious to play the fullest possible part in the Commission's proceedings; he was sure that the same applied to the other specialized agencies.

Mr. JEVREMOVIC (Yugoslavia) wished to comment on the French draft resolution and the United Kingdom amendment thereto, as well as on the substantive proposals submitted by the Australian and Danish representatives.

He doubted whether the French procedural proposal would yield positive results, but would not object to it if the majority of members considered it a wise solution. As a matter of principle, however, he could never agree that the specialized agencies should participate in such a working party with the same rights as the members of the Commission, since nothing entitled them to the rôle which the Commission's rules of procedure assigned to its members. That did not, however, mean that he wished to belittle the contribution that the specialized agencies could make to the solution of the problem of the inclusion of economic, social and cultural rights in the draft Covenant. Again, he could not see why some non-governmental organizations should be invited to attend meetings of the working party, and not others. In fact, if the co-operation of non-governmental organizations was considered valuable in plenary, it must be equally valuable in the case of a working party. It was understood, of course, that non-governmental organizations would have the same rights at meetings of the working party as they had at plenary meetings of the Commission.

He would similarly raise no objection to the United Kingdom amendment if the majority considered it capable of producing satisfactory results. He would, however, have to contest the last paragraph if it meant that those attending the working party would be unable to attend meetings of the Commission held simultaneously.

He appreciated the contribution made by the Australian representative in his substantive proposal set out in document E/CN.4/543. Substantively, however, that proposal differed but little from the Danish proposal, so that all the comments that had been made on the latter would apply with equal force to the former. Both proposals omitted a number of important economic and social rights which, in his delegation's view, must incontestably be

included in the Covenant on a par with all the other fundamental rights. There were, for instance, the rights of expectant and young mothers, which he regarded as basic human rights, and which it would be wrong to omit, both from a substantive and from a formal point of view, since General Assembly resolution 421(V) laid emphasis on equality of rights for men and women.

Then there were trade union rights. He could not agree that such rights were covered by the general provision relating to freedom of association. There was a qualitative difference between the employers' right of association and the trade union rights of workers, in that the employers were safeguarding their profits whereas the workers were safeguarding their very existence and their right to live. Again, there was no mention in the Australian proposal of the need for the State to adopt educational measures with a view to bringing up the younger generation in the ideals and purposes that inspired the United Nations. The Danish proposal, in fact, dealt with the question of education in summary fashion, which was dangerous, as it was capable of giving rise to the impression that that part of the problem was being neglected. Moreover, no mention was made of education intended expressly to promote a proper understanding of other peoples, a most important point, particularly for the smaller nations. And was there any reason for excluding the question of the need for education aimed at encouraging a spirit of peace and understanding, and antagonism to aggression? That was also a matter of considerable concern to the smaller countries.

However, the two proposals had still more serious shortcomings which made it impossible for his delegation to accept them; those shortcomings were connected with the obligations resting on the State. In the course

of the discussion, emphasis had been laid on the different conceptions of the duties of the State. It was, of course, true that such differences existed. The Commission, however, should put aside all doctrinaire considerations. Personally, he did not know whether there could be any concept of the State's obligations by which governments had the right to recruit men for their armed forces and to demand the sacrifice of human life, without at the same time assuming responsibility for ensuring reasonable living conditions in times of peace to their citizens. Whatever the ideology and whatever the method employed to implement social rights, such a principle was indefensible. The extent to which such rights could be safeguarded would vary according to each country's resources, but no State could refuse to do everything possible to protect them. No legal problem was involved, for many economic, social and cultural rights were already embodied in many national constitutions. The only problem was to find means of implementing them. Methods of implementation were a matter of free choice for every State, and would vary in accordance with that principle.

His delegation's proposal represented an attempt at a compromise on the question of the obligations incumbent upon the State. He was prepared, however, to accept other suggestions such as that of the French representative, who had proposed that the section of the Covenant on economic, social and cultural rights should begin with a re-statement of Article 22 of the Universal Declaration of Human Rights. It might be appropriate also to mention specifically which obligations were involved, and to lay down that the State should make every effort to improve its citizens' conditions of life.

Such were the reasons which made it impossible for him to accept the Danish proposal as a working paper. He appealed to the Commission to give due consideration to his comments.

Miss BOWIE (United Kingdom) said that it was clear that by setting up a working party the Commission would be following the advice of the Economic and Social Council (resolution of 23 February 1951, E/1927). The French draft resolution, she was sure, was intended to save time. The setting up of working parties had been a regular procedure of the Commission whenever it had appeared likely that private discussions between members who had put forward constructive proposals would save the Commission's time. Her delegation's proposal (E/CN.4/548) had been submitted with that precedent in mind. Not only would the procedure envisaged save time, it would also avoid the difficulties and possible criticism that might arise if the Commission went into private session as a working party of the whole. It would also rule out the possibility of other non-governmental organizations requesting leave to attend and thereby in part defeating the Commission's object in setting up the working party. The last paragraph of the United Kingdom amendment had been included because it was understood that the representatives of the specialized agencies who had been delegated to attend the meetings of the proposed working party would not be available until 25 April. Her delegation's proposal aimed at simplifying procedure and speeding up the Commission's work.

Mr. YU (China) said that his delegation considered the French draft resolution acceptable, subject to the amendment suggested by the Chilean representative; it could not, however, support the United Kingdom amendment.

As he had said at the previous meeting, every effort should be made to obtain the fullest possible information to assist in the accomplishment of the Commission's task. Consequently, he considered the French draft resolution constructive. Meetings held in private would afford an opportunity for the free exchange of opinions, and the representatives of specialized agencies and non-governmental organizations should be granted the right to be heard on the all-important question of economic, social and cultural rights. It would undoubtedly be a great advantage for the specialized agencies to be able to speak frankly in private meetings, just as it would be of advantage for the Commission to be able to analyse the various proposals that the specialized agencies were likely to put forward.

He too had urged that the discussions of the proposed working party should be based on the broadest possible conception of economic, social and cultural rights, and in that connexion he was glad to note the spirit of conciliation and co-operation which had been shown at the previous meeting, which augured well for the future. The Danish and Australian proposals should also be regarded as basic working papers on which to build as new facts came to light. It should not be overlooked that if an exhaustive enumeration of economic, social and cultural rights was envisaged, the process of evolving a satisfactory text would necessarily be slow.

The fact that his delegation had not so far put forward any positive proposals did not mean that it was less interested in the subject than those which had; consequently, he felt that the composition of the proposed working party should not be restricted, as the United Kingdom amendment suggested, for it might well happen that when further information was forthcoming from the specialized agencies, other members also might have constructive proposals to make. Moreover, such an important matter was the concern of the whole Commission, which was already itself a small enough group. Again, it would be wrong to assume that only those who had submitted proposals were qualified to consult with the specialized agencies.

With regard to the last paragraph of the French draft resolution, he fully agreed, pending the arrival of the special representatives of the specialized agencies, that the Commission should pass to the next item on the agenda; in fact, his delegation had originally considered that that subject should be dealt with first.

AZMI Bey (Egypt) agreed with the Chinese representative's remarks. The Commission was still in the exploratory stage. What it needed to do at the moment was to hear all views and to gather as much information as possible. It did not therefore seem desirable to set up a small working party. Such a procedure would, on the other hand, be of service when the Commission reached the stage of co-ordination and drafting of texts.

That being so, he would support the draft resolution proposed by France as amended by the Chilean proposal.

Mr. MOROSOV (Union of Soviet Socialist Republics) wished to propose three amendments to the United Kingdom amendment. For reasons which he had stated at the previous meeting, he proposed the deletion of the words "in private session" from the first paragraph. It was not possible at that stage to contemplate a private discussion exempt from all control by public opinion. Secondly, as all the specialized agencies, and not only those mentioned in the amendment, could be called upon as and when necessary, the phrase "in collaboration with the specialized agencies concerned, in particular, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization", should also be deleted. Thirdly, for reasons he had also given at the preceding meeting, he moved the deletion of the final paragraph of the amendment. The proposed working party, made up as suggested in the amendment, could meet immediately after the close of the general discussion on item 3(b) of the agenda, and in the meantime the specialized agencies concerned could appoint their representatives. The Commission's time-table should not be upset because some representatives of specialized agencies were not available at once.

Mr. DUPONT-WILLEMIN (Guatemala) supported the French proposal and the principle of the Chilean amendment thereto. He noted, however, that that amendment put the specialized agencies on the same footing as the non-governmental organizations, which was contrary to the rules of procedure.

He would therefore ask the Chilean representative whether he could agree to modify his amendment in such a way that it would simply state that, if the Commission decided to establish such a body, the working party might invite the non-governmental organizations concerned to attend its discussions.

Mr. CASSIN (France) agreed with the Egyptian representative that the time was not yet ripe to set up a drafting committee, and that it would be unfair to deprive any delegation of the opportunity of participating at the moment when the Commission was only embarking upon its discussions.

He would willingly accept the Chilean amendment to his draft resolution provided that, as suggested by the representative of Guatemala, it was brought into line with the provisions of the rules of procedure.

The French delegation wished to emphasise the fact that the collaboration of all international organizations and, in particular that of the specialized agencies, would be required if a satisfactory Covenant was to be framed.

Mr. WHITLAM (Australia) said that in principle he supported the United Kingdom amendment, since experience had shown that it was very difficult to draft texts in a committee of the whole. Working parties would undoubtedly have to be set up, but the discussion seemed to indicate clearly that all representatives felt the need for a further general exchange of views. Consequently, while prepared to accept the French draft resolution as amended by the Chilean and Guatemalan representatives, he maintained that the working party should be set up only after the Commission had had a further opportunity of fully co-ordinating its views on item 3(b) of the agenda.

The CHAIRMAN said that the French draft resolution (E/CN.4/545/Rev.1) was the basic document on which the Commission would have to take its decision. The French representative had accepted the Chilean amendment thereto (E/CN.4/546), and the verbal suggestion of the Guatemalan representative. The United Kingdom amendment (E/CN.4/548) to the French proposal would be put to the vote, first followed by the Soviet Union amendments.

AZMI Bey (Egypt) pointed out, in connexion with the United Kingdom proposal that the working party to be set up should consist of the representatives of the delegations which had submitted draft texts, that the Egyptian delegation, too, had submitted a text (E/CN.4/547). He therefore wished to propose that the United Kingdom proposal be amended by inserting the name of Egypt in the appropriate place in the first paragraph.

He also wished to propose the addition at the end of the first paragraph of the United Kingdom proposal of the words "and with the participation of any other member of the Commission who so desires".

Miss BOWIE (United Kingdom) was prepared to accept the first Egyptian amendment to her proposal.

As to the second Egyptian proposal, she would ask that it be put to the vote separately.

The CHAIRMAN stated that he would put to the vote the first clause of the first paragraph of the United Kingdom amendment, to replace the first clause of the French draft resolution. That clause, as amended, read:

"The Commission on Human Rights

Decides to set up a Working Party consisting of the representatives of Australia, Denmark, Egypt, Yugoslavia, United States of America, and the Union of Soviet Socialist Republics to study"

The first clause, as amended, of United Kingdom amendment to the French draft resolution was rejected by 10 votes to 3 with 5 abstentions.

The CHAIRMAN then put to the vote the Soviet Union proposal that the words "in private session" be deleted from the third line of the United Kingdom amendment.

The Soviet Union amendment was rejected by 8 votes to 6 with 4 abstentions.

Mr. MOROSOV (Union of Soviet Socialist Republics) asked that the second clause of the first paragraph of the United Kingdom amendment, relating to the collaboration of the specialized agencies, be put to the vote before his third and last amendment.

The Commission then voted as follows:

The Soviet Union proposal that the words "in collaboration with the Specialized Agencies concerned, in particular, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization and invites the non-governmental organizations concerned, especially the International Confederation of Free Trade Unions and the International Confederation of Christian Trade Unions to attend the meetings of the working group;" be deleted from the French draft resolution as amended by the Chilean and Guatemalan representatives, was rejected by 15 votes to 2 with 2 abstentions.

The Soviet Union proposal that the second paragraph of the French draft resolution be deleted was rejected by 9 votes to 5 with 4 abstentions.

The French draft resolution (E/CN.4/545/Rev.1), as amended by the Chilean and Guatemalan representatives, was adopted by 14 votes to 2 with 2 abstentions.

As adopted, the resolution read:

"The Commission on Human Rights

Decides to transform itself into a working group with the task of studying in private meeting the various proposals concerning economic, social and cultural rights, in co-operation with the representatives of the specialized agencies concerned, in particular, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, and invites the Non-Governmental Organizations concerned, especially the International Confederation of Free Trade Unions and the International Confederation of Christian Trade Unions, to attend the meetings of the Working Group; and

Decides that, pending the meeting of the Working Group, it will begin discussion of the next item on its agenda."

The CHAIRMAN said that he would consult the specialized agencies as to when they would be able to send representatives to attend meetings of the working party.

The meeting rose at 4.50 p.m.