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ENGLISH
ORIGINAL: FRENCHCOMMISSION ON HUMAN RIGHTSSECOND SESSIONSUMMARY RECORD OF THE TWENTY-SIXTH MEETING.

Held in closed session
at the Palais des Nations, Geneva,
on Wednesday, 3 December, 1947 at 10 a.m.

Present:

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

Members: Colonel Hodgson (Australia)

Mr. S. Dehousse (Belgium)

Mr. A.S. Stepanenko (Byelo-Russian S.S.R.)

Mr. P. Garcia de la Huerta (Chile)

Mr. O. Loutfi (Egypt)

Mr. R. Cassin (France)

Mrs. H. Mehta (India)

Mr. A.G. Pourevaly (Iran)

Mr. M. Amado (Panama)

Mr. M. Klekovkin (Ukrainian S.S.R.)

Lord Dukeston (United Kingdom)

Mr. A.E. Bogolomov (Union of Soviet Socialist Republics)

Mr. V. Ribnikar (Yugoslavia)

Secretariat: Professor John Humphrey

Mr. Edward Lawson

communications

The CHAIRMAN stated that representatives could decide whether, as suggested by the Economic and Social Council Resolution No. 75 (v)), they wished to appoint an ad hoc committee before the Commission's next session for the purpose of reviewing the confidential list of communications prepared by the Secretary-General. She considered that since the Commission had received no categorical instructions, the decision regarding the setting up of such a committee rested with representatives.

Mr. CASSIN (France) drew attention to the fact that the Economic and Social Council had merely suggested to the Commission that such a committee should be set up. He considered, however, that for the purpose of reviewing the list an ad hoc committee would have to be appointed, to sort out communications bearing on the principles involved in universal respect for human rights. The committee's role might also comprise other functions.

Mr. DEHOUSSE (Belgium) stated that after careful perusal the document circulated to the members of the Commission, had arrived at the same conclusions as the French representative. He considered that effect should be given to the recommendation of the Economic and Social Council by setting up the committee straightaway. He wished to add one more argument to those advanced at the previous day's meeting, based on the fact that the document, voluminous as it was already, contained only communications received by the Commission between 1 January and 24 October 1947. Any delay in appointing a committee would mean that there would have to be added to the number of communications already received all those which might

subsequently be addressed to the Commission. The examination of those communications would soon present a task of such magnitude that it would be practically impossible to fulfil. He considered that the directives embodied in the Council's resolution were too general, and that the committee should therefore define its functions more precisely in the light of these directives. He noted with satisfaction that among the numerous communications and petitions contained in the document, there were only a few of trifling importance. He also noted that there were a number of complaints against the Franco regime, and he had no doubt that the Commission would share his view that such communications did not call for discussion.

Many of the petitions repeated the accusations and insults exchanged by certain great Powers in the public meetings of the United Nations at the General Assembly. These communications were a reflection of the disturbed state of the world.

The Commission and the committee could not be political machines, but should make an effort to overcome genuine difficulties, ignoring complaints of an artificial nature.

Colonel HODGSON (Australia) considered that the ad hoc committee's functions should be defined. He had the impression that the Commission was still at the same stage as on the 1st January of this year. He feared that the Members of the United Nations not represented on the Human Rights Commission were in a privileged position, since they would receive from the Secretary-General all the communications transmitted to him, whereas the members of the Commission, in virtue of paragraph (c) of Resolution No. 75 (v), could only obtain

those original communications which the ad hoc committee recommended, and even then only on request. He noted, moreover, that the committee could neither pass judgment nor take any action, and had consultative functions only. For these reasons it was advisable to define the functions of the ad hoc committee more fully. He even wondered whether the committee ought not to be empowered, after reviewing the petitions, to make recommendations to the Commission on Human Rights, or the Economic and Social Council, or even to the General Assembly.

Professor HUMPHREY (Secretariat) said there was a contradiction between Resolution No. 75 (v) of the Economic and Social Council and the Annex to the Rules of Procedure of the Security Council.

Consequently, while the members of the Commission could only consult communications whose authors would remain anonymous, those same communications would be transmitted to all the Members of the Security Council without their origin being kept secret. This contradiction had already been discussed in the Secretariat at Lake Success. The committee could, however, make recommendations to the Economic and Social Council on this matter.

In reply to the observations made by the Representative of Australia regarding the privileged position enjoyed by Members not represented on the Commission, he remarked that this question was governed by paragraph (e) of the Council's resolution, asking the Secretary-General: "to furnish each Member State not represented on the Commission with a brief

indication of the substance of any communication concerning human rights which refers explicitly to that State or to territories under its jurisdiction, without divulging the identity of the author." He explained that the Secretariat had interpreted this paragraph to mean that the Members not represented on the Commission would receive the same information as the members of the Commission, and by the same procedure.

Colonel HODGSON (Australia) stated that he was satisfied with this explanation.

Mr. KLEKOVKIN (Ukrainian S.S.R.) considered that the appointment of an ad hoc committee was intimately bound up with item 5 of the Agenda (E/CN.4/22/Rev.2). He noted that the communications received covered a wide range of complex problems concerning the territories of nearly all States. The Commission would therefore not have time to make an exhaustive study of them. The list should contain two parts, firstly: petitions and suggestions emanating from individuals or organizations and relating to the basic principles of human rights. These suggestions should be studied insofar as they were likely to contribute towards the drawing up of the Declaration. Secondly, the list should include complaints and protests from individuals and organizations relating to these same matters. Since it was the Commission's task to draw up a Declaration on Human Rights, communications of the first category should be used by it for information purposes. But as time was short, neither the Commission nor the ad hoc committee could embark on an exhaustive study of these communications.

As regards communications in the second category, i.e. complaints concerning political or legal matters, neither the

Commission nor the ad hoc committee could deal with them without turning itself into a Court of Justice. Moreover, these complaints contained details which could not be verified, and came rather within the province of the Security Council. Neither the Commission nor the Committee possessed the legal basis which would entitle it to pronounce judgment on the matters raised. Moreover the Commission had not yet drawn up a draft Convention, the essential basis for establishing the bona fide nature of such claims several of which emanated from groups or individuals that had collaborated with Fascism. The Commission ought to concentrate more on suggestions from organizations of a democratic character; for any other procedure could not fail to lead to friction between the Members of the United Nations.

Lord DUKESTON (United Kingdom) seemed to remember that the Commission had decided in February 1947 that it could receive communications, but could take no decision on them until the text of a Declaration and a Convention had been drawn up. He considered however that suggestions should be taken up insofar as they might be of assistance in preparing the Declaration or the Convention. With regard to the other suggestions, whatever the opinion of the members might be on their substance, he did not think the Commission could give a ruling until it had worked out a Declaration or Convention. It had neither the mandate nor the authority to do that. He considered that priority should be given to urgent questions. Therefore the task of the ad hoc Committee would be to go through the suggestions, picking out any that might be of assistance in drawing up the Declaration.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republics) did not think it advisable for the Commission to take into consideration the lists of communications, since many petitions were tendentious or erroneous in character, and were not even based on fact. Most of them were directed against the democratic countries and closely resembled the petitions received from Russian quislings. If the Commission nevertheless decide to take these communications into consideration, it might just as well take notice of certain articles published by the reactionary press which contained the same arguments.

He deplored the fact that the document contained only a few petitions and communications relating to trade union rights for instance, or from organizations which aimed at defending human rights. The document contained only one communication from the International Federation of Women. Rare, too, were those from non-self-governing territories, where, nevertheless, many rights remained unrecognized. If the Commission decided to appoint the ad hoc Committee it would set itself up as an International Court of Justice, which would not be in accordance with its terms of reference. He proposed that, in any case, communications from individuals should not be taken into consideration, but that the Committee, if appointed should concentrate solely on petitions submitted by the important democratic organizations which were defending the principles of human rights.

They alone would be of value in drawing up the Declaration of Human Rights.

MR. LOUTFI (Egypt) saw nothing against setting up the ad hoc Committee immediately, but it was important that it should

remain within the limits laid down by the Economic and Social Council.

Mrs. MEHTA (India) recalled that during the last session of the Commission, she had proposed that all communications and petitions be communicated to all members of the Commission. She seemed to remember that after a certain amount of opposition, the Philippine Delegate had proposed the appointment of an ad hoc committee which, however, would not be competent to take any action. Mr. Cassin had then pointed out that the authors of petitions ought to know that the Commission was prepared to examine them and if necessary send them on to the Secretary-General. It would therefore be in conformity with that original decision to set up the ad hoc committee immediately.

Mr. RIBNIKAR (Yugoslavia) agreed with the statements made by the representatives of the Ukraine and Byelorussia. He wondered however what the committee would actually do, and what recommendations it would communicate to members of the Commission. He recalled that it had been stated that only communications containing "principles involved in the promotion of universal respect for and observance of human rights" could be transmitted, and not mere complaints. That being so, he thought it was useless to discuss the matter any longer. As regards complaints he assumed that the Commission would not be in a position to discuss them without knowing their origin or authors. The list of communications received also contained complaints about Yugoslavia emanating from "Yugoslav national groups". These were groups established in the

United States and were therefore in no way national in character. These complaints moreover merely contained libellous echoes of reports published in the press against Yugoslavia, and reference had been made to them in the General Assembly which had adopted a special resolution on the matter. He said he would refuse to discuss them. Finally he saw no reason to set up the ad hoc Committee.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) thought the list of communications did not merit the Commission's attention, especially as the latter - like the Committee - had no authority to take decisions. The Committee's task would merely be to examine constructive suggestions which might be useful for the Declaration of Human Rights, but even that task would be difficult because at a Press Conference it had been recognized that ideas differed with regard to the actual definition of democracy. Members of the Commission should concern themselves solely with the drafting of the Declaration. If the Commission did, however, decide to set up an ad hoc Committee, the latter should only deal with communications from important democratic organizations which were in a better position than individuals to contribute to the establishment of the principles of human rights. Account should also be taken of suggestions made by organizations which aimed at defending trade union rights. He noted with regret that the list was incomplete and did not faithfully reflect the humiliations from which the populations of non-self-governing territories were suffering. Only the communication from the International Federation of

Women, which comprised several million members, was briefly mentioned. He thought that as a whole the list was of no great value from the point of view of the Commission's work. He proposed that this document should be dealt with in the same way as those given in brackets under the fifth item of the Agenda (Drafting Committee's Report). In conclusion, he asked the Commission not to set up the proposed Committee.

The CHAIRMAN did not wish representatives to be left with the impression, which they appeared to have, that the Secretariat might not have published all the communications received. She explained that petitions and claims relating to trust territories had been listed in the third part of the document which had been distributed. These communications had already been published, as public documents, by the Trusteeship Council, in accordance with Article 87, paragraph (b) of the Charter. The communications relating to non-self-governing territories were also included in the Commission's documents.

Professor DEHOUSSE (Belgium) wished to reply to the arguments against the appointment of an ad hoc Committee. Even if that Committee had to work within the narrow limits of the terms of reference given by the Economic and Social Council, its appointment was necessary. Something must obviously be done about communications received. He had been impressed by the statement made by the representative of the Ukraine. Settlement of the question of admissibility appeared to be necessary. He thought that petitions sent in by organizations which were fascist or had collaborated with the enemy should not be submitted to the Commission. As the Secretariat could not be given

discretionary powers in the matter, the committee would have to decide whether petitions were admissible. That was a further reason justifying the ad hoc committee's functions.

Another powerful argument was the contradiction pointed out by Professor Humphrey between the treatment given to petitions within the framework of the Security Council, and within that of the Economic and Social Council. That question might similarly be clarified by the ad hoc committee. Finally, the exchange of views which had just taken place between several representatives of the Commission had revealed the existence of a series of questions which could only be settled by the ad hoc Committee.

Taking advantage of the fact that the Commission was in private session, he said that he had been very sorry to find that UNESCO, a specialized agency, had just published a report on "The Bases of an International Bill of Human Rights", a report which the UNESCO Committee had sent to the Human Rights Commission of the United Nations. He wished to know whether UNESCO had been asked by the Secretariat to draw up that Report or whether the Secretariat had been consulted as to its opportuneness. Extracts from that Report had been published in the Weekly Bulletin of the United Nations, and he would like to know on whose initiative that Report had been drawn up. It would be regrettable if the initiative in the matter had been taken by UNESCO alone.

Professor HUMPHREY (Secretariat) said that the Secretary-General had not asked UNESCO to prepare either a Bill of Human Rights or documentation for such a Bill. He had the impression that UNESCO had acted on its own initiative. Nothing in the Resolutions of the Commission or of the Economic and Social Council could have decided UNESCO to draw up that Report.

As regards its publication in the Bulletin, although the question was outside his competence, he thought he could say that the fact that extracts had been published in the Bulletin in no way meant that the initiative in question had been sponsored by any United Nations organ whatsoever.

The CHAIRMAN said that at the Commission's last session, Dr. Huxley, Director of UNESCO, had been present at one or two meetings. He had told her, in the course of a private conversation, that UNESCO would endeavour to establish certain principles of human rights. She explained that her opinion had not been asked. She did not know whether the Report submitted by UNESCO was the result of that endeavour.

Professor DEHOUSSE (Belgium) was relieved to find that the United Nations Secretariat and more especially, the Human Rights Division, was not responsible for the UNESCO Report. Nevertheless, UNESCO's action was most regrettable. The Review "Synthèses", published in Brussels, had devoted a special number to the Bill of Human Rights prepared by UNESCO. In all its articles the Human Rights Commission of the United Nations was not mentioned once. ~~Political~~, diplomatic and literary circles in Brussels had been wondering, a few days previously, whether it was the Bill drawn up by UNESCO that was going to be discussed this week in Geneva. He urged that in future such incidents should be avoided.

Professor HUMPHREY (Secretariat) explained that the Report in question bore the title "The Bases of an International Bill of Human Rights". The sub-title explained that it was a "Report submitted by the UNESCO Committee on the Philosophical Principles of Human Rights to the Human Rights Commission of the United Nations". UNESCO had asked him to distribute the document to members of the Commission, and he intended to have it distributed later in the session. In his opinion, UNESCO had the right to request the distribution of such documents: he read out paragraph 6, Article 3 of the Agreement concluded between UNESCO and the United Nations, which authorized such distribution.

He took the opportunity of raising a somewhat similar question. He recalled that the nuclear Commission had recommended that the Secretary-General gather all useful information on the subject of war crimes where human rights were involved. That request had been confirmed on 21 June 1946 by a resolution of the Economic and Social Council. The Secretariat had asked the International War Crimes Commission to prepare the documentation in question.

In the latter case, therefore, the Secretariat bore full responsibility for having requested that documentation from the War Crimes Commission. He asked representatives whether the voluminous document prepared by the United Nations Commission, although necessarily incomplete since all the trials had not been completed, should be reproduced and distributed as an official document of the United Nations. He proposed that the Commission, if it approved the action taken by the Secretariat, should vote a resolution thanking the United Nations Commission for the useful documentation it had got together.

The CHAIRMAN proposed that the two questions be discussed separately. She considered that, as regards the UNESCO report, the Commission might either leave it to the Secretariat to solve the difficulty or take up the principles which might be useful in drawing up the Declaration and decide later whether to publish the UNESCO report or not. She explained, however, that the Secretariat was of the opinion that, under the terms of the Agreement between UNESCO and the United Nations, the document ought to be published.

Colonel HODGSON (Australia), on a point of order, asked the CHAIRMAN to take a decision on the subject. In his view the two documents had no bearing on item 4 of the Agenda now under discussion, but were related to item 5.

The CHAIRMAN agreed, but pointed out that this question had been brought up for discussion because the Commission was sitting in closed session.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) did not agree with the representative of Australia that there was a considerable difference between items 4 and 5 of the Agenda. He felt that the Commission should not devote any more time to the UNESCO document, particularly as several members of the Commission were not members of UNESCO. He proposed that the UNESCO report and the document of the United Nations War Crimes Commission be treated differently from the reports submitted by the Institute of International Law and the League of Human Rights. Those reference documents should be dealt with in the same way as the documents mentioned between brackets after item 5 of the Agenda.

The CHAIRMAN stated that these documents, not being communications, could not be discussed before item 5 of the Agenda. She invited the Commission to vote on the first question relating to communications: "Does the Commission consider it necessary to set up an ad hoc Committee as suggested by the Economic and Social Council?".

Decision: This proposal was adopted by nine votes to four.

The CHAIRMAN invited the Commission to vote on the second question: "Should this Committee assume these functions during the present session?".

Decision: The proposal was adopted by eight votes to nil with five abstentions.

Colonel HODGSON (Australia) proposed a resolution designed to define more clearly the Committee's functions, worded as follows:

"The Commission on Human Rights,

Resolves

that in addition to the functions for the ad hoc Committee suggested by the Economic and Social Council in its Resolution of 5 August 1947, the ad hoc Committee shall also submit a report on the list of communications under a) to the Commission on Human Rights along with any recommendation it may deem appropriate."

Decision: The Resolution was adopted by seven votes to nil with six abstentions.

The CHAIRMAN proposed that the ad hoc Committee should be composed of the representatives of the Union of Soviet Socialist Republics, Chile, France, Lebanon and the United States.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) stated that he agreed to serve on the ad hoc Committee, but adhered to the negative attitude he had taken up with regard to the actual appointment of this Committee.

The CHAIRMAN recalled that the Commission had decided, at its first private meeting, that no summary record would be made of the deliberations. She thought, however, that it would be useful if a summary record were made of the present long private meeting and, if the representatives agreed to this proposal, it would perhaps be advisable to reverse the decision taken in connection with the previous private meeting.

Decision: The Commission decided that a summary record would be made of the two meetings in closed session in the form of a restricted document, which would be distributed to members of the Commission only.

In order to obtain the necessary publicity for the three resolutions adopted during the meeting, the Chairman would make a statement at the opening of the next public meeting on the three resolutions and on the composition of the ad hoc Committee on Communications.

The CHAIRMAN invited the representatives to express their views on the advisability of distributing the UNESCO document. She recalled that the Secretariat was of the opinion that, under the terms of the Agreement between UNESCO and the United Nations, this document ought to be reproduced and distributed.

Professor HUMPHREY (Secretariat) stated that had the members of the Commission not started a discussion on this point, the document would have been published. He pointed out to representatives that if they were to decide not to publish the document, UNESCO would be entitled to ask why the Commission did not treat its documents in the same way as the other documents reproduced by the Commission.

Mr. DEHOUSSE (Belgium) wanted to turn the question round. He wondered why UNESCO had prepared this report without consulting the United Nations. He thought this constituted a very dangerous

precedent. He proposed that, to show the Commission's disapproval, the UNESCO report should not be reproduced but should be distributed to the members of the Commission only.

The CHAIRMAN thought it would be preferable to reproduce and distribute the document in conformity with the existing agreement but the Secretariat should be requested to point out to UNESCO and to all the other specialized agencies that in similar cases contact with the Human Rights Commission was essential prior to any action such as had been taken by UNESCO.

Mr. CASSIN (France) supported this proposal.

Mr. AMADO (Panama) agreed with the representative of Belgium. He had heard that the first International Philosophic Congress, which met at Rome last year, had dealt with the problem of human rights and had decided to pass on the study of this problem to UNESCO.

Colonel HODGSON (Australia) stated that the Commission had not asked UNESCO for the report, that UNESCO a specialized agency, had not consulted the United Nations, and that there had been no co-operation or liaison. The UNESCO document claimed to define the philosophical principles of an International Bill of Human Rights and even the implementation of such a Bill. Personally, he did not approve of the majority of the ideas put forward in the report and therefore saw no reason why the Commission should itself undertake public action.

The CHAIRMAN, before putting the question to a vote, explained that, at the Commission's first session, Mr. DARCHAMBEAU, delegate of UNESCO, had informed the Commission that UNESCO intended to deal with the problem of human rights. She had replied that the Commission could not take up any position at that time. From that day to this she had heard no more of the matter.

Decision: The Commission decided, by eight votes to four with one abstention, not to reproduce the UNESCO report for distribution to all the Members of the United Nations.

The meeting rose at 1.35 p.m.