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ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SECOND SESSION

SUMMARY RECORD OF TWENTYNINTH MEETING

Held at the Palais des Nations, Geneva, on
Thursday, 4 December, 1947, at 3.p.m.

Present:

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

Members: Col. W. R. Hodgson (Australia)
Prof. F. Dehousse (Belgium)
Mr. A.S. Stepanenko (Byelorussian S.S.R.)
Mr. Nan-Ju Wu (China)
Mr. O. Loutfi (Egypt)
Prof. R. Cassin (France)
Mrs. Hansa Mehta (India)
Mr. A.G. Pourevaly (Iran)
Dr. C. Malik (Lebanon)
Mr. M. Amado (Panama)
Gen. C.P. Romulo (Philippine Republic)
Mr. M. Klekovkin (Ukrainian S.S.R.)
Mr. A.E. Bogomolov (U.S.S.R.)
Lord Dukeston (United Kingdom)

Representatives
of the Commission
on the Status of
Women:

Mrs. B. Begtrup, Chairman

Mrs. E. Uralova, Rapporteur

Specialised Agencies: Mr. J. de Givry (I.L.O.)
Mr. J. Havet (UNESCO)
Mr. Weis (Preparatory Commission
for the International
Refugee Organization)

Non-Governmental
Organizations:

Category A: Miss Toni Sender (American
Federation of Labour)
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. Nolde (Commission of the
Churches on International
Affairs)
Mr. J.M.E. Duchosal (Comité
Internationale de la
Croix Rouge)
Dr. Bienenfeld (Consultative
Council of Jewish Organizations)
Miss de Romar (Union Internationale
des Ligues Feminines
Catholiques. Union Catholique
Internationale de Service
Social)
Miss van Eeghen (International
Council of Women)

1. Report of the Drafting Committee (continuation of discussion).

The CHAIRMAN welcomed General ROMULO, representative of the Philippine Republic, to the Commission.

General ROMULO (Philippine Republic) thanked the CHAIRMAN and apologised for his late arrival. He went on to say that it appeared perfectly clear to him, from the Terms of Reference, that the Commission's primary function was to produce a draft International Bill of Human Rights. The drafting of a Declaration on Human Rights, although not excluded by the Terms of Reference, would appear to be subordinate to the main task. He shared the opinions of the representatives of Australia, Belgium and Lebanon concerning the lack of value of a Declaration, which might be approved by the General Assembly in the form of a recommendation to Member States. He cited the case of Chapter XI of the United Nations Charter, entitled "Declaration regarding Non-Self-Governing Territories". That chapter, he declared, had been attacked in the Committees of the General Assembly on the grounds that, because it is called "a Declaration" it was not legally binding on the metropolitan powers; it had been maintained that its force was exclusively moral. He said he wished to make it clear that, while he favoured the drafting of a Declaration, he considered it was incidental to the main task of drafting the Bill of Rights and some form of international agreement to secure implementation thereof. He therefore supported the Belgian resolution, as likely to produce concrete results. He was also prepared to support the Soviet Union resolution, provided it could clearly be inferred therefrom that the draft "Declaration on Human Rights" would form the basis for both a Declaration and a Convention, embodying a Bill of Rights.

He went on to say that, in his opinion, the representatives represented not only their own Governments, but the other Member States of the United Nations as well, and that they had a task to perform of the first importance for all the peoples of the world.

The CHAIRMAN said that she wished to clarify the position regarding nomenclature. Paragraph (a) of the Terms of Reference spoke of "an International Bill of Rights", but did not define the term. She maintained that, whatever its meaning might be in the domestic field, the term had no accepted meaning in the international realm; there was no existing concept of "bills" as such in international law. Certain well-known terms existed in international law, such as treaties, conventions, resolutions, declarations, pacts, etc., to define international instruments. Such terms had come, through usage, to have well accepted meanings as to their binding effect. She stated that what the Commission was doing, or hoped to do, was to give the term "bill" a meaning in the international field; at the same time she pointed out that the effect of the work accomplished would not depend on the name of the instrument drafted, but on its type. In support of the view that "a Bill of Rights" need not necessarily be cast in convention form, she cited the opinions of a distinguished international lawyer, Mr. Lauterpacht, expressed in his book "An International Bill of Rights of Man".

She went on to restate the position of the United States. Her Government felt that it would be fairly easy for the Commission to produce during the present session a very good Declaration; the material to do this was at hand in concise form. Her Government did not object to consideration of the Convention, but felt that the principles for the Convention would emerge from the discussion

of the Declaration. While agreeing that the Declaration had no legal method of enforcement, she considered its moral value would be great. Her Government did not consider it would be wise to draft the Convention until Member Governments had had an opportunity to comment on the draft Declaration.

The CHAIRMAN went on to state that four proposals had been made, falling into two categories. The Belgian and the Soviet Union proposals dealt with procedural questions and she ruled that the Belgian proposal should be voted upon first, followed by a vote on the Soviet Union proposal. She considered that the two remaining proposals dealt with matters of substance and, as such, should be voted upon in accordance with Article 54 of the Rules of Procedure: first the French proposal, because it was most far-reaching, and second the United Kingdom proposal.

She added that the United States Government opposed the Belgian proposal as not likely to produce results. It would have been better, in her opinion, to have reached substantial agreement in Plenary Session and then appointed Committees for final drafting purposes. Her Government would support the Soviet Union proposal provided it was clearly understood that it did not exclude the possibility of work being started on the Convention. In the French proposal there were certain points, such as the plan to amend the Charter, and the proposal for implementation to be included in the Declaration as well as the Convention, with which her Government could not agree. She proposed an amendment to the United Kingdom proposal that the first sentence should read: "The Commission considers that it is necessary to prepare two documents, of which one will be a Declaration and the other a Convention". With that amendment, and with the exception of the

third paragraph, her Government would vote in favour of the United Kingdom proposal. She added that the Belgian representative had requested that the vote on his proposal should be taken paragraph by paragraph and that he accepted the amendment proposed by the representative of Australia that the word "(Declaration)" be changed to "(Bill or Convention)".

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) asked that the Soviet Union proposal be voted upon first. While it proposed the immediate discussion of the draft Declaration on Human Rights contained in the Drafting Committee's report, it did not preclude the possibility of discussion and elaboration of other documents at a later stage.

Dr. MALIK (Lebanon), in an effort to simplify the procedure, suggested that there were only two basic issues to be decided: (1) whether or not the Commission should prepare in the present Session both a Declaration and a Convention; and, once that question was settled, (2) whether or not the study and preparation should be undertaken by committees or by the Commission as a whole. The question of implementation would be the only one remaining for a decision after these two points had been voted on.

The CHAIRMAN, in view of Dr. Malik's remarks, felt it might be better to vote first on the proposals of substance.

General ROMULO (Philippine Republic) considered that the United Kingdom proposal and the Belgian proposal were alike in substance. He enquired what would happen to paragraphs 3 and 4 of the United Kingdom proposal if the vote on the Belgian proposal were taken first.

The CHAIRMAN said that, if the votes were taken first on the proposals of substance, they would be taken in the following order: the French proposal with the exception of the last paragraph, the United States amendment to the first paragraph of the United Kingdom proposal, the Belgian proposal, the third paragraph of the United Kingdom proposal and the last paragraph of the French proposal. If the Belgian proposal were carried, the fourth paragraph of the United Kingdom proposal would automatically fall. The last vote would be on the Soviet Union proposal.

Mr. DEHOUSSE (Belgium) disagreed with Dr. MALIK's analysis of the position and said he could not accept the procedure he had proposed, which, in his opinion, involved an immediate choice between a Declaration and a Convention. He said that he preferred the original ruling of the CHAIRMAN, but that he had no objection to the Soviet Union proposal being voted upon first. In view of the importance of the votes, he requested that they should be taken by roll call.

Mr. CASSIN (France) felt that the questions of substance ought to be decided first. He pointed out that a recommendation of the Economic and Social Council requesting the Commission to submit at the earliest possible date proposals as to means to assure the effective observance of human rights and fundamental freedoms had been omitted from the document embodying the Commission's Terms of Reference. It was important that the Commission keep that task in mind.

The CHAIRMAN asked if her original ruling on procedure was challenged by any representative and, as no objection was raised, said they would therefore vote on procedural proposals first and would begin with the Soviet Union proposal.

M . CASSIN (France), while accented the CHAIRMAN's ruling, requested that the Soviet Union proposal be voted upon in two parts: first "That the Commission proceed without delay to consider the draft 'Declaration on Human Rights' submitted by the Drafting Committee", and second "That the Commission postpone the present discussion until after the draft has been considered".

Dr. MALIK (Lebanon) felt it was a dangerous procedure to vote first on the Soviet Union proposal. He cited the experience of the Drafting Committee to support his contention that there was a danger of exhausting the time at their disposal in the present session in elaborating the Declaration without doing anything about the Convention. He therefore proposed an amendment to the Soviet Union proposal: "That the Commission proceed without delay to consider the draft Declaration contained in Annex F, and the draft Articles for inclusion in a Convention contained in Annex G of the Report submitted by the Drafting Committee".

General ROMULO (Philippine Republic) supported the Lebanon amendment.

Col. HODGSON (Australia) asked the Soviet Union representative, through the CHAIRMAN, to indicate whether he accepted the undertaking asked for by the representative of the United States that the passage of the Soviet Union proposal did not preclude the immediate consideration of a Convention and of implementation at the present session.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said his proposal did not preclude the possibility that the Commission might formulate proposals as to the consideration of a draft Convention or any other document at a later stage of the Commission's discussions, after the draft Declaration had been considered.

He did not agree with the representative of Lebanon's views. If all the time at the disposal of the Commission were going to be used in considering the draft Declaration, how could Dr. MALIK argue that it would take less time to consider simultaneously two documents?

The CHAIRMAN asked the Soviet Union representative if he would accept Dr. MALIK's amendment.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said the amendment of the representative of Lebanon merely tended to complicate the issue and maintained that it would be better for the Commission to concentrate its efforts on the draft Declaration. If agreement as to the contents of the Declaration were reached, he felt the further tasks would be more easily discharged.

Dr. RIBNIKAR (Yugoslavia) was of opinion that the Lebanon proposal should be considered separately. In his opinion it was not an amendment to the Soviet Union proposal because it destroyed the very substance of it.

Dr. MALIK (Lebanon) pointed out that, if his amendment were passed, the last clause of the Soviet Union proposal would automatically fall.

The CHAIRMAN, in answer to the representative of Yugoslavia, stated that Dr. MALIK's proposal was presented as an amendment to the Soviet Union proposal and would have to be considered as such.

LORD DUKESTON (United Kingdom) supported Dr. MALIK's amendment. He felt it was quite clear that the intention of the Soviet Union proposal was to give priority to the Declaration; it was equally clear that the Commission was not going to have an opportunity of discussing the Convention in the present Session. He considered

the issues were, whether or not to have both a Declaration and a Convention, and, whether these should be considered and drafted simultaneously. In his opinion those questions had to be settled.

Mr. CASSIN (France) said that by asking for the vote on the Soviet Union proposal to be taken in two parts, he had implied that its first paragraph was sufficient in itself. On that point he was in agreement with Dr. MALIK. He said that he had an amendment to propose when the second part of the Soviet Union proposal was considered.

Col. HODGSON (Australia) asked the CHAIRMAN whether, if the Soviet Union proposal, as amended by the representative of Lebanon, were carried, it would follow that the Belgian, French and United Kingdom proposals would automatically fall? The question of implementation was contained in those proposals and should the CHAIRMAN rule them out, he felt he would be bound to submit another amendment.

Mr. DEHOUSSE (Belgium) said he wished to support the remarks of the representative of Australia concerning implementation, and pointed out that should the Soviet Union proposal, as amended, be accepted, no decision on organization and method of work would have been taken. He therefore considered it necessary that the Belgian proposal dealing with procedure should be put to the vote.

The CHAIRMAN ruled that regardless of what decision was taken on the Soviet Union proposal, votes would also be taken on the Belgian, French and United Kingdom proposals.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said he noted that the Soviet Union proposal had given rise to amendments

by the representatives of Lebanon, Australia and Belgium. If action were taken on all these amendments, he felt he would be in the position of having to vote against his own proposal. He contended that the original Soviet Union proposal should be voted upon and that the amendments should be considered as separate proposals.

The CHAIRMAN said that only one amendment to the Soviet Union proposal had been made, that of the representative of Lebanon. The representative of France had suggested that the vote on the Soviet Union proposal should be taken in two parts. She asked the representative of the Soviet Union if he agreed to that.

Mr. KLEKOVKIN (Ukrainian S.S.R.) contended that the Lebanon amendment changed the substance of the Soviet Union proposal and it should therefore be considered separately. The Soviet Union proposal tended to exclude consideration of the draft Convention for the time being; after deciding on the draft Declaration the Commission would be able to decide whether or not to have a Convention. The Soviet Union proposal in its original form was merely a procedural one and should be retained in that form.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the Soviet Union Delegation could not agree to the amendments proposed by the representatives of Belgium, Lebanon and Australia. Regarding the French proposal to divide the vote into two parts he understood the procedure was that a division might be requested by any representative. In view of the fact that the whole proposal consisted of one sentence only, however, he was of the opinion that it would be more advisable to vote on it as a whole.

Mr. DEHOUSSE (Belgium) understood the perplexity of the Soviet Union representative and suggested two means whereby the difficulty might be solved: (1) the Soviet Union representative might withdraw his resolution, or, (2) he might agree to the Belgian

proposal being voted upon first.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) was unable to accept either of those suggestions.

The CHAIRMAN requested a vote by roll call on the amendment to the Soviet Union proposal: "That the Commission proceed without delay to consider the draft 'Declaration on Human Rights' contained in Annex F, and the draft Articles for inclusion in a Convention contained in Annex G of the Report submitted by the Drafting Committee."

The amendment was accepted by 10 votes to 4, with 1 abstention.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) stated that the Soviet Union Delegation had refused to accept the amendments of the representatives of Belgium, Lebanon and Australia and it considered the proposal just voted on, not as a Soviet Union proposal, but as a Lebanon proposal. The Soviet Union Delegation therefore withdrew its proposal.

The CHAIRMAN requested a vote by roll call on the first paragraph of the Belgian proposal:

"1. The immediate setting up of three Working Parties, to deal respectively with the problem of the Declaration, the Convention or Conventions, and implementation." The proposal was accepted by 8 votes to 6, with 1 abstention.

A vote by roll call was taken on paragraph 2 of the Belgian proposal:

"2. The membership of these Working Parties would be determined in accordance with the Chairman's proposal", and it was accepted by 10 votes to 1, with 4 abstentions.

Dr. MALIK (Lebanon) raised a point of order in connection with paragraph 3 of the Lebanon proposal. He considered that "the first Working Party" really referred to the second Working Party and

suggested altering the numbering of the groups to put paragraph 3 into harmony with the principles in paragraph 1.

Mr. CASSIN (France) proposed that the original draft of the Belgian proposal should be retained in the third paragraph.

Mr. DEHOUSSE (Belgium) said he agreed with Dr. MALIK regarding the alteration of the numbering of the groups in paragraph 3. He could not agree to the French proposal as he had already accepted the amendment proposed by the Australian representative.

Mr. AMADO (Panama) said that should the word "Declaration" be changed to "Bill or Convention" in paragraph 3 of the Belgian proposal, he would be unable to vote in favour of paragraph 3.

The CHAIRMAN requested a vote by roll call on the Australian amendment to change the word "(Declaration)" in line 1 of paragraph 3 of the Belgian proposal to "(Bill or Convention)". The amendment was rejected by 9 votes to 5 with 1 abstention.

She then asked for a vote on the French amendment to retain the original wording of paragraph 3 of the Belgian proposal. The amendment was passed by 3 votes with 12 abstentions.

She then asked for a vote on paragraph 3 of the Belgian proposal:

"3. The first Working Party (Declaration) would begin its work immediately upon its establishment. The second and third Working Parties would begin work as soon as the Secretariat services were in a position to assist them, and at latest on Monday, 8 December."

The proposal was accepted by 8 votes, with 7 abstentions.

A vote was then taken on paragraph 4 of the Belgian proposal:

"4. These Working Parties would present reports to the Plenary Commission as soon as possible; the Commission would, in the course of the present session, take such decisions in regard to their proposals as it deemed advisable."

The proposal was accepted by 10 votes to 1, with 4 abstentions.

The CHAIRMAN then requested a vote on the Belgian proposal as a whole, and it was accepted by 9 votes to 5, with 1 abstention.

Mr. CASSIN (France) said he was prepared to withdraw his resolution, and proposed the addition of a heading to the Belgian proposal just accepted: "The Commission, desirous of fulfilling its mission, resolves to proceed to:"

The CHAIRMAN said that, as no objections were raised, the Commission accepted the text of the representative of France as a heading to the Belgian resolution. She stated that the United States amendment to the United Kingdom proposal would be voted upon next.

Col. HODGSON (Australia), on a point of order, asked whether the United Kingdom proposal fell by virtue of the Belgian proposal just accepted.

The CHAIRMAN thereupon asked the United Kingdom representative whether he was willing to withdraw his proposal, in view of the passing of the Belgian proposal.

Lord DUKESTON (United Kingdom) felt that paragraph 1 of his proposal raised the issue of whether the document to be prepared would be called a "Bill" or a "Convention". In his opinion paragraph 2 was also important. He withdrew paragraphs 3 and 4, and asked that paragraphs 1 and 2 should be voted upon.

The CHAIRMAN requested a vote on the United States amendment to the first paragraph of the United Kingdom proposal: "The Commission considers that it is necessary to prepare two documents, of which one will be a Declaration and the other a Convention." The amendment was rejected by 8 votes to 4, with 4 abstentions.

A vote was then taken on paragraph 1 of the United Kingdom proposal: "The Commission considers that it is necessary to prepare two documents, a Bill of Human Rights in the form of a

Convention, and a Declaration of Human Rights." The vote resulted in 6 for the proposal, 6 against it and 3 abstentions, and the CHAIRMAN stated that, according to Rule 39 of the Rules of Procedure, the proposal was rejected.

Lord DUKESTON (United Kingdom) agreed that the second paragraph of his proposal fell, in virtue of the rejection of the first paragraph.

Col. HODGSON (Australia) asked if it could be assumed that the Working Group on Implementation would have for the basis of its study Annex H of the Report of the Drafting Committee.

The CHAIRMAN considered that that was a point which the Working Group itself would have to decide.

The meeting rose at 6.25 p.m.