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COMMISSION ON HUMAN RIGHTS

REPORT OF THE COMMISSION ON HUMAN RIGHTS TO THE SECOND
SESSION OF THE ECONOMIC AND SOCIAL COUNCIL

In accordance with the resolution of the Economic and Social Council of 16 February 1946 (E/27 of 22 February 1946) on the establishment of a Commission on Human Rights and a Sub-Commission on the Status of Women, the nuclear Commission on Human Rights met at Hunter College, New York City, from 29 April to 20 May 1946, to consider its terms of reference, the definitive composition of the Commission, and various documents referred to the Commission concerning human rights, and to report thereon to the Second Session of the Economic and Social Council.

The Commission consisted of the following nine members:

Mr. Paul Berg (Norway)
Mr. Alexander Borisov (U.S.S.R.)*
Mr. Dusan Brkic (Yugoslavia)*
Prof. Rene Cassin (France)
M. Fernand Dehousse (Belgium)
Mr. Victor Raul Haya de la Torre (Peru)
Dr. C. L. Hsia (China)*
Mr. K. C. Neogy (India)
Mrs. Franklin D. Roosevelt (United States)

Mr. Paul Berg (Norway), M. Fernand Dehousse (Belgium) and
Mr. Victor Raul Haya de la Torre (Peru) were unable to attend the first

* Dr. C. L. Hsia had been nominated in place of Dr. John C. H. Wu, and Mr. Dusan Brkic in place of Dr. Jerko Radmilovic. Mr. Alexander Borisov was nominated in place of Mr. Nikolai Kriukov. Mr. Borisov took part in the meetings of the Commission from 13 May 1946. Owing to a misapprehension on the part of the Commission and partly on the part of the member first attending the Commission meetings from the U.S.S.R., this representative took part in all of the discussions and in the votes of the Commission up to the time Mr. Borisov arrived on 13 May 1946, and stated that the former representative had been only an observer and should, therefore, not have taken part in either discussions or votes. As a result, Mr. Borisov took exception to certain agreements that had been reached, and in this report and in the Summary Records of the meetings of the Commission, his objections and dissents are recorded.

session of the Commission. The Commission held 18 meetings and one drafting session. Mrs. Franklin D. Roosevelt (U.S.A.) was elected Chairman, M. René Cassin (France), Vice-Chairman, and Mr. K. C. Neogy (India), Rapporteur.

After the adoption of the Rules of Procedure for the first session of the Commissions of the Economic and Social Council (E/Commissions/1), Mrs. Roosevelt, Mr. British, and M. Cassin were appointed ex-office members of the Sub-Commission on the Status of Women, in accordance with Section B, Paragraph 5, of the Council Resolution on the establishment of the Commission on Human Rights (E/27).

I. TERMS OF REFERENCE

The terms of reference contained in Paragraph 2 of the Council Resolution (E/27) were reviewed and accepted by the Commission. It was generally felt that item (a), namely, an international bill of rights, might be found to cover substantially items (b), (c) and (d). Attention was drawn to the fact that item (e) of the terms of reference recommended in the Report of the Preparatory Commission (Page 36, Paragraph 16) - "any matters within the field of human rights considered likely to impair the general welfare or friendly relations among nations" - was not included in the terms of reference drawn up by the Council. The Commission agreed to request the Council to consider the desirability of adding a clause substantially on the lines of the original item (e), so as to be able to deal with any matter not covered by items (a), (b), (c), and (d), such as the eventual punishment of certain crimes which must be considered as international, as they constitute an offence against all mankind.

II. PROGRAMME OF WORK

The Commission discussed in detail item 8 of the agenda (E/HR/5) concerning the scope of work of the Commission and the examination of documents submitted by Members of the United Nations (E/HR/1, E/HR/2,

The Commission proceeded with this examination in full realization of the grave importance of the task entrusted to it by the Charter of the United Nations. It fully realized the importance of achieving and promoting the recognition and observance of human rights and fundamental freedoms for all, in the hope of drawing from the last world war which demanded the sacrifice of so many lives, the lessons which will aid us to achieve the highest aspirations of mankind. In addition, the Commission paid particular attention to well-considered plans and suggestions which were presented to it through hearings by qualified representatives of national and international organizations, well known for the importance of their work.

The members agreed that the fullest possible documentation and information concerning the whole field of human rights was of the utmost importance first for the drafting of an international bill of rights, and the Secretariat was requested to collect all available material on the subject, and to publish periodically the most important information. But the Commission is confident that the Member countries will make regularly and on their own initiative, either themselves or by an organ entrusted with this task, contributions for the information of the Commission, as they primarily will have to bear the responsibility for developing human rights and for assuring their observance.

The Commission felt that while it was within its competence to draft a bill of human rights, it was not as yet in a position to do so, but it would proceed with the preparatory work.

The Commission agreed that the full Commission should determine the character of the bill which is to be drafted, as well as the content and the form of the bill (for instance, should it be a resolution by the Assembly of the United Nations or an appendix to the Charter, having to be integrated into the constitution of each Member Nation, or a convention

between the States, or in any other form). Therefore, it was decided to recommend that the full Commission should draft an international bill of rights as soon as possible, and that this draft should be circulated among the United Nations governments for their comment.

The importance of regional conferences of experts was emphasized, and in this connection, reference was made to the Inter-American Conference of War and Peace Problems at Mexico City (Act of Chapultepec) in March 1948. Some members pointed out that it might be difficult, at present, to arrange for similar conferences in other parts of the world, such as the Far East.

The Commission decided to recommend that if such conferences should prove impracticable in the very near future or before the convening of the full Commission, the advice of individual experts from various regions should be sought. It was considered most important that within the next weeks, the procedure for initial consultations should be started, in accordance with the decisions of the Economic and Social Council, so that their results may immediately aid the Commission in its work.

As the drafting of a bill of rights might take a certain time in spite of every effort at speed in its preparation, members of the Commission unanimously stressed the importance of the acceptance of the principle of including provisions for basic human rights in international treaties, particularly peace treaties. It was also agreed that such provisions should be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

With regard to the promotion and observance of human rights and fundamental freedoms, the Commission felt that practical and effective measures must be taken, that each Member State must feel bound to adopt, in accordance with its system of government, measures to safeguard the

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observance and to provide against the violation of those rights and freedoms that are proclaimed in an international bill. But the Commission also felt the need for an international agency of implementation, entrusted with the task of watching over the general observance of human rights, in order to prevent the recurrence of acts as monstrous as those which formed the prelude of the Second World War.*

It was also pointed out that, pending the eventual establishment of such an agency, the Commission on Human Rights might assist the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, and that it might aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights may constitute a threat to the peace.

The Commission recognized that when the Economic and Social Council comes to consider the question of how to implement an international bill of rights, it may find that political actions are necessary. This may also be the case where protection of national minorities is concerned. The Commission, therefore, requests the Economic and Social Council to take this problem into consideration in determining the status and power of the Commission on Human Rights, of its Sub-Commissions, or of any other agency established to safeguard the observance of human rights.

The Commission considered that the number of sub-commissions, for the time being, should be limited, and that in addition to the existing Sub-Commission on the Status of Women, a Sub-Commission on Freedom of Information should be established.

It was agreed that the Secretariat should be instructed to collect all documentation concerning items (c) and (d) of the terms of reference protection of minorities and prevention of discrimination on grounds of

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race, sex, language, or religion -- as a preliminary step to future consideration of the question of establishment of Sub-Commissions on these subjects.

Finally, the Commission agreed to express the view that public discussion of human rights should be stimulated and encouraged throughout the world.

The recommendations to the Economic and Social Council with regard to the programmes of work of the Commission on Human Rights were unanimously formulated as follows:

A. Documentation

The Commission recommends that:

1. The Economic and Social Council should instruct the Secretariat
 - (a) to compile a yearbook, the first edition of which should contain all declarations and bills on human rights now in force in the various countries.
 - (b) to collect and publish information on the activities of the General Assembly, the Economic and Social Council, the Security Council, the Hague Court, the Commission on Human Rights, and all other organs of the United Nations dealing with human rights and fundamental freedoms; to include information on the Nuremberg and Tokyo trials which might be important in the field of human rights; to include also a survey of the developments of human rights, as well as plans and declarations by specialized agencies and non-governmental national and international organizations
2. The Economic and Social Council might suggest to the Member Nations to establish information groups or local human rights committees within their countries who would transmit periodical information to the Commission on Human Rights on the observance of human rights in their countries, both in their legal systems and their jurisdictional and administrative practice.

B. Draft Declarations

The Commission recommends that:

1. The full Commission should draft an international bill of rights as soon as possible. The nuclear Commission should proceed with the preparations for such a bill. The draft of the international bill of rights, as completed by the full Commission should be circulated among the United Nations governments for their suggestions.
2. The detailed examination of the documents submitted by the Delegations of Cuba and Panama (Documents E/HR/1 and E/HR/3) should be left to the full Commission or to a later session of the nuclear Commission.

3. The organization of regional conferences of experts should be taken under consideration. If such conferences should prove impracticable before the full Commission is convened, the advice of individual experts from different regions should be sought.*

C. Human Rights in International Treaties

The Commission recommends that:

without waiting for an international bill of rights to be written, the general principle should be accepted that provisions for basic human rights be included in international treaties, particularly peace treaties that similar provisions be accepted by all States, Members of the United Nations and by States seeking admission to the United Nations.

D. Provisions for Implementation

The Commission recommends that:

1. It shall be considered that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, could only be fulfilled if provisions were made for the implementation of the observance of human rights and of an international bill of rights
2. Pending the eventual establishment of an agency of implementation the Commission on Human Rights might be recognized as qualified to aid the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, concerning the promotion and observance of human rights and fundamental freedom for all, and to aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights committed in one country may, by its gravity, its frequency, or its systematic nature, constitute a threat to the peace.**

E. Sub-Commissions

The Commission recommends that:

The Council should consider the appointment of a Sub-Commission on Freedom of Information and of the Press.

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III. DEFINITIVE COMPOSITION OF THE COMMISSION

In accordance with Section A, Paragraph 6 of the Council Resolution (E/27), the Commission discussed in detail the definitive composition of the Commission.

With regard to the type of membership, it was generally felt that as the Economic and Social Council was elected by the governments represented in the General Assembly, and as the Members of the Economic and Social Council, in their turn, represented governments, the Commission on Human Rights, appointed by the Council, should not again consist of representatives of governments. It was further emphasized that the Commission should consist of highly qualified persons. The Commission, by a majority, agreed to recommend that all members of the Commission on Human Rights should serve as non-governmental representatives, appointed by the Council out of a list of nominees submitted by the Member States of the United Nations.*

The Commission reached unanimous agreement on the recommendation concerning the number of members, their re-eligibility, and their term of office.

The question of fitting the nuclear Commission into the scheme of definitive composition of the Commission was considered. One member expressed the view that the Economic and Social Council might, if necessary, call for the resignation of the present members, so as to enable the Council to appoint all the members of the Commission at the same time on a uniform basis.

* Mr. Borisov (U.S.S.R.) disagreed with the recommendation that all members should serve as non-governmental representatives. He expressed the view that all members of the Commissions and Sub-Commissions should be appointed as government representatives in the same way as the Members of the Economic and Social Council.

The members felt that the Commission was not in a position to make recommendations concerning the number and the duration of sessions of the full Commission. With regard to Corresponding Members, the Commission felt that it could not, at present, recommend the practice followed by the League of Nations of naming members of the Commission "Corresponding members" upon their resignation, but the members of the Commission unanimously agreed to recommend that the Commission on Human Rights should be authorized by the Economic and Social Council to call in ad hoc working groups of non-governmental experts or individual experts.

The recommendations to the Economic and Social Council with regard to the definitive composition of the Commission on Human Rights were finally formulated as follows:

1. Type of Membership and Method of Selection

- (a) All members of the Commission on Human Rights should serve as non-governmental representatives;
- (b) All member States of the United Nations should have the right to nominate not more than two individuals for the Commission;
- (c) Any Member State desiring to do so, could nominate a national of another Member Nation;
- (d) The full list of nominees should be submitted to the Council and from this list alone the Council should appoint the members of the full Commission.
- (e) The Economic and Social Council should at all times pay due regard to equitable geographical distribution and to personal qualifications of the nominees for service on the Commission.

2. Number of Members

The full Commission should consist of eighteen members.

3. Re-eligibility

The members of the full Commission should be eligible for re-appointment.

4. Term of Office

Members of the full Commission should be appointed for a term of three years by the Economic and Social Council. Of the first eighteen members of the Commission appointed by the Council the term of office of six members should expire at the end of one year, of six other members at the end of two years, and of the last six members at the end of three years.

5. Frequency of Meetings

The Commission felt ~~that~~ it was not in a position at the present time to make recommendations concerning the number and the duration of sessions of the full Commission. It was decided to inform the Economic and Social Council that the nuclear Commission would be ready to meet at the call of the Council and to take up any work which the Council may refer to it.

6. Corresponding Members

The Commission felt that it could not, at present, recommend the practice followed by the League of Nations of naming members of the Commission "Corresponding members" upon their resignation.

7. Working Groups and Experts

The Commission should be authorized by the Economic and Social Council to call in ad hoc working groups of non-governmental experts or individual experts without reference to the Council, but with the approval of the President of the Council and of the Secretary-General.

8. Reciprocal Representation between Commissions

In accordance with the Report of the Preparatory Commission (Page 37, Paragraph 39), suitable arrangements for reciprocal representation should be made between the Commission on Human Rights and Commissions working in allied fields.

9. Specialized Agencies

In conformity with the Report of the Preparatory Commission (Page 39, Paragraph 40), the Commission should be authorized to invite representatives of the appropriate specialized agencies to take part in its meetings, in accordance with the terms to be laid down in the agreements between the Economic and Social Council and such agencies.

IV. SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

In the course of the discussion on the terms of reference of the Sub-Commission on Freedom of Information and of the Press (E/HR/2, E/Commissions/4, E/HR/14 and E/HR/17, which the Commission desired to see established, one of the members called attention to the fact that in the United States the news services were a highly developed industry, while in many other parts of the world, newspapers and news services did not enjoy a comparable position. Other members pointed out that it had often happened that newspapers and news agencies had poisoned the mind of the public by twisting the facts. Freedom should always be coupled with responsibility, and these members felt that in the future measures should

be considered against deliberate and systematic distortion of the truth. All members agreed that representation on this Sub-Commission should be as wide as possible, including the different regions in the world, as well as the different media of information.

The following recommendations were formulated:

1. Number of Members

The Commission (by a majority vote) recommends that the Sub-Commission on Freedom of Information and of the Press should be composed of twelve members.

2. Type of Membership

The Commission (by a majority vote) recommends that the members of the Sub-Commission on Freedom of Information and of the Press should be selected and appointed in the same way as is recommended for the full Commission on Human Rights.*

3. Terms of Reference

The Commission recommends that the function of the Sub-Commission, in the first instance, be to examine what rights, obligations, and practices should be included in the concept of freedom of information, and to report to the Commission on Human Rights on any issue that may arise from such examination.

4. Documents

The Commission decided to refer to the Sub-Commission on Freedom of Information and of the Press all documents on any subject pertaining to freedom of information and of the press.

V. HEARINGS

The Commission devoted one of its meetings to the hearing of a number of non-governmental organizations primarily concerned with human rights. On behalf of the Commission the Chairman informed the representatives of these organizations that the text of their speeches, together with various documents received, would be transmitted to the Economic and Social Council and to the full Commission on Human Rights for further consideration.

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VI. REPORT ON THE SUB-COMMISSION ON THE STATUS OF WOMEN

The Commission transmits to the Council for its information the report of the Sub-Commission on the Status of Women appended hereto (E/HR/18). It commends the conscientious care and thoroughness with which the report has been prepared.

Section B of the resolution of the Council of 16 February 1946 on the establishment of the Sub-Commission (E/27) provided in paragraphs 2, 3, and 4:

- "2. The sub-commission shall submit proposals, recommendations, and reports to the Commission on Human Rights regarding the status of women.
- "3. The sub-commission may submit proposals to the Council, through the Commission on Human Rights, regarding its terms of reference.
- "4. The sub-commission....shall make recommendations on the definitive composition of the sub-commission to the Second Session of the Council through the Commission on Human Rights."

Taking these provisions into account, the Commission recommends to the Economic and Social Council:

- 1 - That the Council might follow the suggestions concerning the composition of the full Sub-Commission made in Paragraphs 1, 2, and 4 of Section III of the Report of the Sub-Commission (E/HR/18) and that for all other questions, a similar procedure to the one recommended for the Commission on Human Rights be applied.*
- 2 - That, having due regard for the importance of Section I on Policy (E/HR/18), it be referred for study to the full Commission on Human Rights, and that the attention of the governments of all Member States should be drawn especially to the suggestions concerning development of education of women and their political rights wherever they are not yet in a position to assume their full responsibility. (E/HR/18, Page 9)
- 3 - That a complete and detailed study of legislation concerning the status of women and its practical application be initiated, taking into account all important alterations that have arisen since the first general inquiries made by the League of Nations. (E/HR/18, Sect. II, 1)
- 4 - That the Secretariat (Department of Social Affairs, Division of Human Rights) be furnished with all necessary means of qualified

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personnel and material, to enable it to organize the studies referred to in Paragraph 3, to collect and distribute in agreement with the Department of Public Information and other services and branches of the United Nations, the documentation concerning the question of women, and to fulfill all the duties incumbent on the United Nations in this field. (E/HR/18, Section II, 1, 6)

- 5 - That consultations should take place with the governments of Member States on problems concerning women which may appear to them to be the first items for discussion, either by a general women's conference or by different conferences, each with a definite purpose, inside the field of one of the specialized agencies, such as the ILO, UNFSCO, etc.. (E/HR/18, Sect. II, 4)