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COMMISSION ON HUMAN RIGHTS

Fifth Session

SUMMARY RECORD OF THE HUNDRED AND THIRTY-SECOND MEETING

Held at Lake Success, New York,
on Friday, 17 June 1949, at 10.30 a.m.

CONTENTS: Draft Covenant on Human Rights: Additional articles and draft resolution proposed by Denmark (E/CN.4/333, E/CN.4/342, E/CN.4/343, E/CN.4/344, E/CN.4/345) (discussion continued).
Measures of Implementation: Draft resolution submitted by India and the United States (E/CN.4/336).
Right of petition: draft resolution proposed by Guatemala, India and the Philippines (E/CN.4/316).

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| <u>Chairman:</u> | Mrs. ROOSEVELT | United States of America |
| <u>Rapporteur:</u> | Mr. Charles MALIK | Lebanon |
| <u>Members:</u> | Mr. HOOD | Australia |
| | Mr. WOULBROUN | Belgium |
| | Mr. SAGUES | Chile |
| | Mr. CHANG | China |
| | Mr. SOERENSEN | Denmark |
| | Mr. LOUTFI | Egypt |
| | Mr. CASSIN | France |
| | Mr. GARCIA BAUER | Guatemala |
| | Mrs. MEHTA | India |
| | Mr. GOUDARZI | Iran |

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(13 p.)

JUN 28 1949

UNITED NATIONS

| | |
|---------------|--------------------------------------|
| Mr. AQUINA | Philippines |
| Mr. KOVALENKO | Ukrainian Soviet Socialist Republics |
| Mr. PAVLOV | Union of Soviet Socialist Republics |
| Miss BOWIE | United Kingdom |
| Mr. MORA | Uruguay |
| Mr. VILFAN | Yugoslavia |

Representatives of specialized agencies:

| | |
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| Dr. METALL | International Labour Organization (ILO) |
| Mr. ARNALDO | United Nations Educational, Scientific and Cultural Organization (UNESCO) |

Consultants from non-governmental organizations:

Category A:

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| Miss SENDER | American Federation of Labor (AF of L) |
| Mrs. MEAGHER | World Federation of Trade Unions (WFTU) |

Category B:

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| Mr. FRIEDMAN | Co-ordinating Board of Jewish Organizations |
| Mr. BERNSTEIN | |
| Dr. ROBB | International Federation of University Women |
| Mr. PERLZWEIG | World Jewish Congress |
| Mrs. ALIETA | Catholic International Union for Social Service |
| Miss SCHAEFFER | International Union of Catholic Women's Leagues |
| Miss HYMER | International Federation of Business and Professional Women |

Secretariat:

| | |
|--------------|---|
| Mr. HUMPHREY | Representative of the Secretary-General |
| Miss KITCHEN | Secretary of the Commission |

DRAFT COVENANT ON HUMAN RIGHTS: ADDITIONAL ARTICLES AND DRAFT RESOLUTION PROPOSED BY DENMARK (E/CN.4/333, E/CN.4/342, E/CN.4/343, E/CN.4/344, E/CN.4/345) (discussion continued)

The CHAIRMAN recalled that the Commission had before it a Danish draft resolution (E/CN.4/333) concerning the economic and social rights set forth in articles 22 to 27 of the Universal Declaration of Human Rights.

The Danish delegation had agreed to adopt two amendments proposed by the delegations of France and Lebanon respectively (E/CN.4/342 and E/CN.4/344). There remained two further amendments to the Danish draft, one proposed by Yugoslavia and the other by the Philippines (E/CN.4/345, E/CN.4/343). The resolution would be voted on paragraph by paragraph, with the relevant amendments.

Paragraph 1, to which no amendment had been submitted, was adopted by 11 votes to none, with one abstention.

The CHAIRMAN put to the vote the Yugoslavian amendment to delete paragraph 2 and substitute the following: "Considering that it is necessary to include provisions on this subject in the Covenant on Human Rights".

The amendment was adopted by 6 votes to 2, with 4 abstentions.

Paragraph 3, to which no amendment had been submitted, was adopted by 11 votes to none, with 2 abstentions.

The CHAIRMAN put to the vote the Philippine amendment, according to which the last paragraph would read as follows:

"Requests the Economic and Social Council to ask the Secretary-General to prepare, before the next session of the Human Rights Commission, a survey of the activities of other bodies of the United Nations and the specialized agencies with reference to economic and social rights, particularly those within the scope of Articles 22-27 of the Universal Declaration of Human Rights for the purpose of helping the Commission to provide for their observance in the Covenant on Human Rights."

The amendment was rejected by 6 votes to 6, with 2 abstentions.

The CHAIRMAN put to the vote the last paragraph of the Danish proposal, as amended by France and Lebanon.

A discussion followed, in which the representatives of China, Lebanon, France, the Philippines and Yugoslavia took part, on the question of taking a separate vote on the last words of the paragraph proposed by France.

Mr. CASSIN (France) thought it was impossible to hope that the draft Covenant would be so complete as to render any further conventions unnecessary. In order to remove the apparent contradiction to the newly accepted Yugoslavian amendment, however, he was willing to withdraw the word "premier" from his amendment, leaving the phrase as follows: "soit dans le Pacte des droits de l'homme, soit dans les Pactes suivants" (either in the Covenant on Human Rights or in later conventions).

As that suggestion did not answer the objections raised, the Commission decided to vote on the French amendment (E/CN.4/342) in four separate parts.

The CHAIRMAN put to the vote the words "what action it should take in those fields, in particular for the inclusion of these subjects..."
The words were adopted by 12 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the word "either".
The word "either" was adopted by 8 votes to 7, with no abstentions.

The CHAIRMAN put to the vote the words "in the Covenant on Human Rights".
The words were adopted by 14 votes to none, with one abstention.

The CHAIRMAN put to the vote the words "or in later conventions".
The words were adopted by 8 votes to 7, with no abstentions.

The CHAIRMAN put to the vote the Lebanese proposal (E/CN.4/344) to add to the last paragraph of the Danish-French proposal the words "and to transmit to Governments for their comments all proposals for new articles on economic and social matters at the fifth session of the Commission, together with the summary records of the discussions which took place on them".

Mr. VILFAN (Yugoslavia) wished to know whether the Lebanese proposal implied that the discussion on the new additional articles was closed.

The CHAIRMAN assured the Yugoslav representative that the discussion on new articles would continue when all the items on the agenda of the Commission had been dealt with.

Mr. Charles MALIK (Lebanon) said that the reference in his proposal to the summary records of discussions made it clear that there was no intention of stifling discussions on the new articles. The amendment did not in any way prejudice the Commission's action on those articles during the current session.

Mr. AQUINO (Philippines) pointed out that when the French and Lebanese texts were taken together, it was not clear who was to be responsible for transmitting new proposals to Governments.

Mr. Charles MALIK (Lebanon) explained that his amendment was originally to the Danish text, which made it clear that it was the Secretary-General who would transmit the new articles.

After a brief discussion on the redrafting of the Lebanese amendment, Mr. MALIK (Lebanon) accepted the CHAIRMAN's suggestion to insert the words "requests the Secretary-General" before "to transmit" in the first line of the amendment.

Mr. CASSIN (France) considered that by dwelling on economic and social matters, the Lebanese amendment implied the omission of new articles on other topics. Although he had agreed to forego discussion on his proposal regarding the treatment of prisoners, in order to save time, he was anxious that it should go forward to Governments. He therefore suggested that the Lebanese amendment might be ^{so} amended as to make it clear that all new articles, especially those connected with economic and social matters, would go to governments for their consideration.

Mr. SOERENSEN (Denmark) pointed out that he himself had proposed a procedural article which he was anxious to see transmitted. The Commission had agreed that all the proposed new articles would be mentioned in the report, and the emphasis on economic and social matters in the resolution was merely to impress Governments with the importance of those topics.

Mr. Charles MALIK (Lebanon) suggested that the words "or other" might be inserted before "matters" in the Lebanese amendment.

Mr. HOOD (Australia) advised the Danish representative against accepting those words. The resolution was concerned with the importance of securing to everyone the enjoyment of economic and social rights; the insertion of other matters would detract from the force of the resolution. If necessary, the other new articles could form the topic of another resolution.

Mr. SOERENSEN (Denmark) agreed with the Australian representative.

Mr. PAVLOV (Union of Soviet Socialist Republics) noted that his delegation had proposed two new articles concerning the right of peoples to self-determination and the right of the individual to participate in the government of his country. Those were not economic and social articles, but he was nevertheless anxious that they should be transmitted to Governments. They were to be discussed later in the session, and that discussion ought not to be prejudiced by the adoption of any resolution.

The CHAIRMAN explained that the Commission had already adopted an Australian resolution providing that new articles would be forwarded to Governments, together with a record of any discussion the Commission was able to have. The Danish resolution, on the other hand, was connected solely with articles on economic and social matters. She therefore proposed that the Lebanese amendment should be voted on as it stood, with the sole addition of the words "requests the Secretary-General".

It was so decided.

The Lebanese proposal, as amended, was adopted by 12 votes to none, with 3 abstentions.

The CHAIRMAN put to the vote the whole of the Danish resolution, as amended.

The resolution was adopted by 12 votes to none, with 3 abstentions.

Mr. VILFAN (Yugoslavia) explained that his delegation had abstained from voting on the Danish resolution because it considered that the economic and social articles referred to should have been included in the Covenant immediately. The omission of those extremely important articles defeated the purpose of the whole Covenant.

Mr. METALL (ILO) expressed the International Labour Organization's willingness to assist the United Nations in preparing further articles for the Covenant on Human Rights. As a specialized agency closely connected with the economic and social fields, it would be happy to contribute to the inclusion of articles on those topics in the Covenant.

Mr. ARNALDO (UNESCO) associated himself with the feelings expressed by Mr. Metall. The Danish resolution would give the specialized agencies a chance to help in formulating measures for the implementation of articles 22 to 27 of the Universal Declaration of Human Rights. UNESCO had already published a volume of essays on human rights, and a series of six booklets on economic and social rights was planned for the coming year.

MEASURES OF IMPLEMENTATION: DRAFT RESOLUTION SUBMITTED BY INDIA AND THE UNITED STATES (E/CN.4/336)

The CHAIRMAN explained that the Secretariat suggestion that the words "a brief summary of the minutes" in paragraph 1 should be replaced by the words "the records" had been accepted by the sponsors of the draft resolution.

In reply to a question by the representative of France, she explained that the Commission's decision of 8 June 1949 had concerned the preparation of a questionnaire by the Secretariat. An additional resolution would be required for the transmission of that questionnaire to Governments.

She proceeded to put the India-United States draft resolution (E/CN.4/336) to the vote.

The draft resolution was adopted by 12 votes to none, with 3 abstentions.

RIGHT OF PETITION: DRAFT RESOLUTION PROPOSED BY GUATEMALA, INDIA AND PHILIPPINES (E/CN.4/316)

Mr. PAVLOV (Union of Soviet Socialist Republics) stated that the question of the right of petition of individuals and groups had been discussed in connexion with measures of implementation, as well as with the draft Covenant. Proposals for inclusion of that right had been presented and rejected on both occasions. The matter had therefore been settled and no separate resolution was necessary on the question, which could be reconsidered at the following session.

/The CHAIRMAN

The CHAIRMAN stated that the records of the previous meetings showed that no action had been taken which would prevent the consideration of the draft resolution, which dealt with a matter of procedure.

Miss BOWIE (United Kingdom) noted that sub-paragraph (b) of the draft resolution seemed to be based on the view that petitions were receivable. In view of the decisions adopted earlier by the Commission, however, the paragraph would prejudge the question.

Mr. INGLES (Philippines) explained that the draft resolution would not prejudge the issue, since it merely asked the Secretary-General to make a further study of the question. He recalled a proposal which he had endorsed, during the discussion of which the view had been taken that whether or not the Covenant would provide for the right of petition of the individual, the latter should have juridical personality before organs set up by the United Nations. The question had not yet been studied, and the purpose of the draft resolution was to provide for a study in the light of comments which might be received from Governments. The Commission was therefore competent to deal with the draft resolution.

The CHAIRMAN also agreed that the proposal could be examined, since it dealt with the consideration of petitions outside the Covenant.

Mr. GARCIA BAUER (Guatemala) pointed out that the Commission had decided to deal first with the substantive part of the draft Covenant and then to go on to measures for implementation and the right of petition. Consequently the proposal on the right of petition was in order. Numerous Sub-Commissions of the United Nations had recognized in their work the individual right of petition; moreover, a great many such petitions had already been received in the United Nations, which demonstrated the need to include a suitable provision in the Covenant. A study of the question in the light of those developments would be very useful and would enable the Commission to consider the matter at its following session.

Mr. SOERENSEN (Denmark), while supporting the right of the individual to petition, felt that the matter should be studied in relation to the Covenant, in order to avoid confusion and unnecessary

complication. The Commission had on its agenda the question of the procedure of dealing with communications; such procedure should be worked out together with the procedure for the consideration of petitions.

With regard to the draft resolution, he agreed with the representative of Guatemala that previous studies on the question should be carried further.

Referring to the Secretariat study of the question of receivability of petitions (E/CN.4/93) which contained a proposal for a standing committee to deal with the matter, he pointed out that adoption of sub-paragraph (b) would prejudge the issue and bind the Secretariat in carrying out a study under sub-paragraph (a). There was an inherent contradiction in the proposal and he could not therefore vote for sub-paragraph (b) which he felt was premature.

Miss BOWIE (United Kingdom) said that she also felt it was unwise to request further study by the Secretariat until document E/CN.4/93 had been discussed.

She understood sub-paragraph (a) of the operative part of the draft resolution to refer only to the comments of Governments represented on the Commission on Human Rights; she felt, however, that the comments of all Governments were required.

Mr. AQUINO (Philippines) said that the discussion on the Secretariat resolution, sponsored by the Philippine delegation, concerning the receivability of petitions, had shown the need for further serious study of the question. In reply to the representative of Denmark, he pointed out that such study would enable the Commission at subsequent sessions to reach a decision on the right of petition for groups and individuals.

He did not feel that the operative part of the draft resolution (E/CN.4/316) in any way prejudged the question. Sub-paragraph (a)

/visualized

visualized the preparation by the Secretariat of a study concerning the various categories of receivability and sub-paragraph (b) the classification of petitions received under those categories.

Mr. PAVLOV (Union of Soviet Socialist Republics) emphasized that it would be procedurally wrong to reconsider a matter which had already been disposed of. He had submitted a proposal to discuss items 5 and 6 of the agenda together and that proposal had been accepted, with the result that the question of the right to petition had been discussed within the framework of measures for implementation of the Covenant. A French resolution, a Chinese resolution and the Philippine resolution had all been rejected and the question should be considered closed until the next session. The Commission had done precisely what was requested of it by General Assembly resolution 217 (III) B and Economic and Social Council resolution 191 (VIII) of 9 February. No item remained on the Commission's agenda under which discussion of the question might be taken up again.

On those grounds, he opposed consideration by the Commission of the draft resolution of Guatemala, India and the Philippines (E/CN.4/316). If, however, that resolution was discussed, he reserved the right to speak on the substance of the question, since he felt that the resolution was not merely procedural. If a vote were taken on the resolution he would be obliged to vote against it.

The CHAIRMAN stated that the Commission had voted on the question of including provisions for individual petitions in the present Covenant but had done nothing to preclude consideration of the draft resolution in question.

Mr. CASSIN (France) said that a distinction must be drawn between the receivability of the resolution and its substance. He himself had been Chairman of the Commission when it had adopted the USSR proposal to discuss items 5 and 6 together, and it had been made clear at that time that different resolutions could be adopted on the two items. He therefore felt that the new draft resolution was quite admissible under item 6.

He considered that it would be opportune to discuss the draft resolution, since such discussion would be of assistance in formulating a reply to the General Assembly and might shorten debate there. He did not feel that the question of principle should again be discussed in connexion with the preamble of the draft resolution; its various consideranda might be compressed into one referring to the necessity of replying to the General Assembly in connexion with its resolution 217 (III) B.

Mrs. MEHTA (India) supported the French representative's view of the admissibility of the draft resolution (E/CN.4/316).

She pointed out that the main objection which had been raised to the right of individual petition had been that the Secretariat would be overwhelmed by the number of such petitions which would be received. The object of the resolution was the study of rules for the receivability of petitions in order to determine whether they would in fact prove more than the Secretariat could handle.

Mr. MALIK (Lebanon) supported the Chairman's interpretation of the propriety of examining the draft resolution (E/CN.4/316). He indicated that while the USSR representative had referred to the rejection of the positive Philippine proposal that the draft Covenant should at that time include provisions for individual and group petitions, he had not mentioned the rejection of the Chinese proposal to vote that the draft Covenant should not include such provisions. Those two rejections meant that the Commission had in fact taken no decision on the question and it would be only proper to give it further consideration in compliance with General Assembly resolution 217 (III) B, the USSR representative's interpretation of which he could not accept.

If amendments were proposed to the draft resolution, he hoped to present some which would strengthen it. He would vote in favour of the draft resolution.

Mr. MORA (Uruguay) agreed with the Chairman's interpretation of the position, and pointed out that the resolution also contained reference to communications concerning human rights which came under item 7 of the Commission's agenda.

The United Nations had initiated procedure for receiving communications concerning human rights, some of which were, in reality, petitions. The draft resolution said nothing of the incorporation in the Covenant of the right of petition and the question of receivability of communications; it might therefore be taken as referring to the whole system of the receivability of communications, in which case it could not be considered until the report of the Committee on Communications concerning Human Rights had been received.

Mr. PERLZWEIG (World Jewish Congress) stated that he was grateful for the opportunity of speaking on behalf of those who would be the beneficiaries of the system of implementation of the Covenant.

So far, Governments had had ample opportunities to intervene in questions concerning human rights, and the view was held by some that individuals should approach the United Nations only through their Government. He wished to point out the difficulties of such a procedure. If an individual had a legitimate grievance against his Government he would be forced either to suffer in silence or to apply to a foreign Government. Such a situation would be liable to bring about an extension of the area of diplomatic conflict and individuals should not be placed in such a dilemma by the United Nations.

The only way of rendering the United Nations really effective in the province of human rights was to devise a system of legitimate individual petition. The Commission's object was to protect the individual to protect human personality, and if the individual was rendered legally inarticulate the fundamental principle of the Covenant would be violated. Moreover, an individual whose case was taken up by a Government would receive as charity what he should receive as a right.

He spoke as the representative of communities and organizations -- survivors, in many cases pitifully few, of what had been termed "the greatest crime in history". If such communities had had an opportunity of appealing to an international forum the lives of millions might have been saved. For them the right of petition was a matter of life and death. He indicated that a resurgence of racialism was now taking place in Europe and that hundreds of thousands of people suffered death and persecution without remedy.

Under the 1922 Geneva Convention on Upper Silesia between Germany and Poland, individual petitions had been presented, with eminently satisfactory results. Up to 1937, when the Convention had ceased to exist, the encroachments of the nazi regime in Silesia had been stopped by the exercise of that right. The right of petition had also been used under the League of Nations, and petitions presented against the notorious Cuza Government in Rumania had helped to bring about its overthrow. The United Nations Charter itself contained provision for petitions. Thus nothing new was being requested, and sufficient experience had already been gained to make it possible to arrange that the right should not be frittered away by trivial petitions.

In conclusion, he urged Governments to remember the desperate need of the ordinary human being and not to hesitate to undertake study and action on the very important question of the right of petition.

Miss BOWIE (United Kingdom), regarding the draft resolution as one dealing with petitions in general, asked its authors whether there was any use in discussing the matter further at that point, since any action on it must depend on what was embodied in the Covenant. The issue was being kept alive by the request to Governments for their comments and there was no discourtesy to the General Assembly in saying that the matter should be postponed. She felt that to ask for further study now would prejudge the issue; such study could be made after the comments of Governments on that session's proceedings were available.

The CHAIRMAN stated that her Government felt methods of receiving petitions should be considered and gradually developed; she herself considered the resolution useful and would vote for it.

Mr. AQUINO (Philippines), replying to the United Kingdom representative, said that his delegation felt that the draft resolution was useful precisely because a decision on the right of petition would depend on the procedure worked out for the receivability of petitions. Some Governments, although they were in favour of granting the individual legal personality in disputes, would condition their acceptance of the right of petition on the working out of a satisfactory procedure for its implementation.

In answer to a question from Mr. Humphrey (Secretariat), he stated that under sub-paragraph (a) of the draft resolution (E/CN.4/316) his delegation expected all pertinent comments by Governments, whether Members of the Commission or not, to be taken into consideration.

The meeting rose at 1.5 p. m.