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ORIGINAL: ENGLISH

ECONOMIC AND SOCIAL COUNCIL

FIFTH SESSION

SOCIAL COMMITTEE

SUMMARY RECORD OF THIRTEENTH MEETING

Held at Lake Success on Monday, 28 July 1947, at 3:00 p.m.

Present:

Chairman:	Mr. Moe	
	Mr. Davidson	(Canada)
	Mr. Wu	(China)
	Mr. Osuna	(Cuba)
	Mr. Stolz	(Czechoslovakia)
	Mr. Charron	(France)
	Mr. Ahmad	(India)
	Mr. Malik	(Lebanon)
	Mr. van der Mandele	(Netherlands)
	Mr. Perry	(New Zealand)
	Mr. Maarr	(Norway)
	Mr. Sur	(Turkey)
	Mr. Borisov	(Union of Soviet Socialist Republics)
	Mr. Gore-Booth	(United Kingdom)
	Mr. Kotschnig	(United States)
	Mr. Perozo	(Venezuela)

Representatives of Specialized Agencies:

Miss J. Naass (UNESCO)

Secretariat:	Mr. Stanczyk	(Representing the Assistant Secretary-General for Social Affairs)
	Prof. Humphrey	(Director, Division of Human Rights)

Since Mr. Papanek, Acting President of the Council, was unable to preside, Mr. Moe (Norway) was elected Chairman of the meeting.

Continuation of the Discussion of Chapter V of the Report of the First Session of the Commission on Human Rights (documents E/259, E/AC.7/24, E/486, E/497)

Mr. CHARRON (France) outlined the proposal he had made at the previous meeting regarding the procedure for dealing with communications. His Government was of the opinion that every precaution should be taken to see that petitions received full examination. If communications were forwarded to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the French representative on that Sub-Commission would have some concrete proposals to offer on the method of dealing with them.

Mr. VAN DER MANDELE (Netherlands) said that the Committee should keep

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in mind that any procedure established for the handling of communications would be provisional, since the question depended on the procedure established for implementation of an International Bill of Human Rights. He felt that acknowledgement of the receipt of communications was a mere courtesy, and that the form and wording of replies should be left to the discretion of the Secretary-General in the light of the Committee's discussions. His delegation would support the New Zealand proposals contained in document E/AC.7/24.

Mr. PERRY (New Zealand) explained that his proposal was an attempt to correlate the responsibilities of the United Nations under Article 55 of the Charter with the duties of the Commission on Human Rights. The measures suggested followed largely the recommendations of the Commission on Human Rights with the amendments put forward by the United States delegation. Paragraph (c) of the proposals of the New Zealand delegation provided for the fact that communications might be of two types: communications dealing with the principle of human rights, and complaints regarding the non-observance of those principles. He pointed out that paragraph (d) left out any question of comment on communications forwarded to the Trusteeship Council. Paragraph (e) was the Commission's proposal slightly amended, and the penultimate paragraph was a substitute for paragraph 23 of Chapter V of the Commission's report. His proposal raised the issue of whether complaints should be kept confidential or not; he felt that they should be considered as confidential.

Mr. CHARRON (France) said he would accept the general principle of the New Zealand proposal with one or two reservations.

Mr. STOLZ (Czechoslovakia) said that communications submitted should have certain qualifications: there should be evident intention to seek protection of human rights; communications should not be in a form which would lead to political difficulties between the writer and the State concerned; no consideration should be given to complaints emanating from an anonymous or unauthenticated source; and communications should not deal with subjects already referred to the Commission on Human Rights.

Mr. GORE-BOOTH (United Kingdom) said that he hoped to be able to support the New Zealand proposal with minor amendments. He felt that the Council should not postpone decision on the matter further, or the Secretariat would be placed in a difficult position.

Mr. PERRY (New Zealand), in reply to a question from the representative of China, outlined the functions which he envisaged might be performed by the committee suggested in the first paragraph of the draft resolution

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submitted by the New Zealand delegation. The list of communications received might be very long, and two or three members of the Commission on Human Rights should meet in advance of each session to undertake the big task of looking through the list.

The CHAIRMAN proposed to consider Chapter V of the Report of the Commission, paragraph by paragraph, but took into consideration first the preliminary remarks of the resolution proposed by the delegation of New Zealand (E/AC.7/24).

DECISION: At the suggestion of the representative of the United States, the second paragraph of the introduction to the New Zealand resolution was amended by substituting the words "approves the statement" for "takes note of the statement". The amendment was adopted by twelve votes with one abstention. The introduction as a whole was accepted by thirteen votes with one abstention.

Chapter V, Report of Commission on Human Rights, Paragraph 21 (a)

DECISION: The proposal submitted by the delegation of New Zealand to add at the end of paragraph 21 (a) the words "with a brief indication of the substance of each" was accepted by fourteen votes in favour, with two abstentions.

Mr. BORISOV (Union of Soviet Socialist Republics) said that he did not think such a procedure was necessary and asked that his vote against it should be recorded.

DECISION: The paragraph as a whole was accepted as amended by fourteen votes to one, with one abstention.

Paragraph 21 (b)

The CHAIRMAN pointed out that the proposals submitted by the delegations of New Zealand and the United States regarding paragraph 21 (b) were identical.

Mr. PERRY (New Zealand) agreed, at the suggestion of the representative of India, to delete the words "upon request".

Mr. MALIK (Lebanon) said he saw the point of the request of the representative of India, but explained that the Commission's wish had been to guard against over-divulging of the contents of communications.

Mr. STOLZ (Czechoslovakia) asked whether the list would be furnished only to members of the Commission on Human Rights.

Mr. DAVIDSON (Canada) pointed out that according to the Rules of Procedure formal papers of the Commission should be distributed to all member States and that special provision would need to be made in the Commission's Rules of Procedure if any other course was to be followed. He asked whether the paragraph was intended to refer to individual members or to the Commission as a whole. He would like it made clear that the list would be presented to the Commission in session as a formal report.

Mr. KOTSCHNIG (United States of America) said that the question of
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adjusting the Rules of Procedure did not arise. The list was a confidential one, and it was for the Commission to decide whether it should be communicated more widely.

Mr. DAVIDSON (Canada) pointed out that Commission documents might be confidential or restricted, but might nevertheless be dealt with in open meeting.

Mr. GORE-BOOTH (United Kingdom) suggested adding a stipulation that such a list should come under the provisions of Rule 47 of the Commission's Rules of Procedure.

Mr. VAN DER MANDELE (Netherlands) suggested adding the words "in a private meeting of the Commission".

Mr. GORE-BOOTH (United Kingdom) suggested the wording "to furnish this confidential list privately to members".

- DECISIONS:
1. The Canadian and Netherlands proposal to substitute the words "in a private meeting of the Commission" for "to the members of the Commission" was adopted by twelve votes to one with three abstentions.
 2. The proposal to delete the words "upon request" was adopted by nine votes with six abstentions.
 3. The proposal to delete the words "the contents of these communications" from the Commission's recommendation in document E/259, Chapter V, paragraph 21 (b) was adopted by twelve votes with four abstentions.
 4. The final wording of paragraph 21 (b): "to furnish this confidential list to the Commission in private meeting without divulging the identity of the authors of the communications", was adopted by twelve votes to one with three abstentions.

The CHAIRMAN ruled that the opinion of the meeting was that the communications should be submitted to the Commission in written form.

Paragraph 21 (c)

Mr. STOLZ (Czechoslovakia) asked why provision was made for members of the Commission only to consult the originals of communications in the proposals submitted by the Delegation of New Zealand.

Mr. PERRY (New Zealand) pointed out that the results of the Commission's deliberations would eventually come before the Economic and Social Council. He felt that members of the Commission should be able to consult the originals in the initial instance.

In answer to a question put by the representative of the Union of Soviet Socialist Republics, Mr. PERRY (New Zealand) said the intention was that members of the Commission would be able to consult the originals of communications dealing with the principles of human rights only, but would be limited to the Secretary-General's list when dealing with complaints.

Mr. MAARR (Norway) asked who would decide whether a communication dealt with a question of principle or whether it was a complaint. It would be a difficult duty for the Secretary-General to perform.

/Mr. PERRY

Mr. PERRY (New Zealand) said that he could see no option but to leave it to the Secretary-General, who would have the wording of the resolution and the present discussions to guide him. If, in practice, the procedure were found impracticable, it would have to be reconsidered by the Council.

Mr. KOTSCHNIG (United States of America) supported the proposal put forward by the representative of New Zealand.

Mr. MALIK (Lebanon) questioned whether it would not be putting the Secretary-General above the Commission to allow him greater knowledge than its members and the countries against whom complaints were made.

He agreed with the representative of Norway that it would be difficult for the Secretary-General to reach a decision in borderline cases.

He therefore proposed the alternative procedure that the Commission on Human Rights itself should be trusted provisionally with the handling of communications.

Mr. GORE-BOOTH (United Kingdom) supported the New Zealand proposal subject to early revision. He felt that no apprehension need be felt on the subject of the Secretary-General having greater knowledge than the nations; civil servants often knew more than their cabinet ministers.

Mr. VAN DER MANDELE (Netherlands) supported the representative of the Lebanon. He remarked that it was the aim of the Commission to allow communications to reach it without interfering with the rights of governments. He therefore felt that it was better not to give the impression of any guarantee of secrecy and proposed that the second part of the paragraph be omitted.

Mr. WU (China) supported the Lebanese proposal that the Commission on Human Rights should handle communications and proposed that further discussion of paragraph 21 (c) might be postponed until paragraph 23 of the Report was considered.

Mr. PERRY (New Zealand), in answer to the Lebanese representative, stated that since the Secretary-General would only be carrying out specific requests of the Council, and the Commission was a subsidiary organ of the Council, he could not be considered as being above the Council or the Commission. If the handling of communications were left to the Commission, he felt that it would then turn into a complaints department of the United Nations.

Mr. AHMAD (India) agreed with the representative from Lebanon that it should be the Commission rather than the Secretary-General which decided the borderline cases. He drew attention to the final paragraph of the New Zealand resolution concerning the establishment of a small committee to consider communications and proposed that this committee could decide on which communications should be made available in the original to members of the Commission.

/Mr. DAVIDSON

Mr. DAVIDSON (Canada) felt that the Indian proposal would amount to discrimination against members of the Commission who were not members of the Committee. He supported the principle of the New Zealand amendment but was not satisfied with the wording.

Mr. AHMAD (India) explained that the proposed committee would decide on the basis of the Secretary-General's confidential list which communications should be submitted to members of the Commission in the original. The confidential list would already have been made available to all members of the Commission.

Mr. MALIK (Lebanon) supported the proposal of the representative of India. He also supported the suggestion of the representative of China to discuss paragraph 21 (c) in conjunction with paragraph 23 of the Report.

DECISION: The Council decided to postpone further consideration of paragraph 21(c) until paragraph 23 of the Report was discussed.

Paragraph 21 (d)

Mr. GORE-BOOTH (United Kingdom) in explaining the amendment put forward by the delegation of the United Kingdom (document E/497) pointed out that both the New Zealand and the United Kingdom amendments were directed at the same point. He felt that the United Kingdom proposal was more satisfactory since it would be less misleading for the writers of communications.

Mr. STOLZ (Czechoslovakia) suggested that the writers should be informed that the Commission had no power to take action regarding any complaint concerning human rights.

Mr. PERRY (New Zealand) remarked that it seemed a question of wording. He was not satisfied with either the New Zealand or the United Kingdom proposals but found it difficult to find better phrases.

He agreed with the principle of the suggestion made by the Czechoslovak representative but pointed out that it was not entirely accurate. If large numbers of complaints on one issue were received, the Commission might feel bound to draw the Council's attention to it.

The fair solution would be for every writer to receive a full statement of the Council resolution, but that was obviously not a practical procedure.

Mr. CHARRON (France) was prepared to accept the United Kingdom amendment with some reservation. He could not accept the phrase "However addressed", and while he felt that some acknowledgement should be sent, the same procedure would not be correct for all communications.

Mr. MALIK (Lebanon) proposed that the phrase "a brief indication of the substance" as accepted in paragraph 21(a) be substituted for "subject matter" in the amendment proposed by the delegation of New Zealand.

Mr. VAN DER MANDELE (Netherlands) felt that the Committee was on dangerous ground in approaching the question of taking action and supported the United Kingdom amendment as leaving the question more open and general.

The CHAIRMAN proposed the creation of a Drafting Sub-Committee to prepare a draft of paragraph (d).

DECISION: A Sub-Committee composed of the representatives of New Zealand, United Kingdom, France, Czechoslovakia and the Lebanon was created to redraft paragraph 21(d) of the Report of the Commission on Human Rights.

Proposed Additional Paragraph 21(e), New Zealand Amendment Paragraph (d) (Document E/AC.7/24) and United States Amendment 3 (Document E/486).

Mr. KOTSCHNIG (United States of America) accepted the New Zealand proposal relating to petitions concerning trust territories, but wished to retain the United States proposal that such communications be referred to the Trusteeship Council with such comments as the Commission on Human Rights deemed desirable within its terms of reference.

He felt that it was necessary to safeguard the Commission's right to comment on matters concerning human rights throughout the world, even if it was within the Trusteeship Council's competence to handle the communication.

Mr. AHMAD (India) questioned the use of the term "petitions" rather than "communications".

Mr. PERRY (New Zealand) accepted the change.

Mr. AHMAD (India) raised the question as to whether different treatment would be accorded communications from trust territories than from other territories.

Mr. KOTSCHNIG (United States of America) replied that he was not suggesting the Commission need go to the originals and that therefore there would be no distinction in treatment.

Mr. GORE-BOOTH (United Kingdom) accepted the phrase "communications".

With reference to the Indian representative's question, he pointed out that in the case of communications relating to trust territories the correct procedure was to forward them to the Trusteeship Council, which could then consult the Commission.

The Committee voted on the amendment put forward by the representative of the United States.

DECISION: Since six members voted for the amendment and six against with four abstentions, the amendment was held over for a new vote at the next meeting.

Proposed Additional Paragraph 21(f), United Kingdom Amendment III (Document E/497)

Mr. MALIK (Lebanon) objected to the words "communications addressed to the Commission" as being too restrictive since communications were addressed in many ways, and suggested "communications concerning human rights".

He proposed that "summary particulars" be amended to read "a brief indication of the substance".

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He also proposed the addition of the phrase: "without divulging the identity of the authors of the communications".

Mr. GORE-BOOTH (United Kingdom) accepted the first two amendments proposed by the Lebanese representative, but felt that the third should be considered in conjunction with paragraph 21(c).

The CHAIRMAN ruled that discussion of the proposed addition be postponed for the time being.

Mr. KOTSCHNIG (United States of America) felt that the United Kingdom proposal under discussion would lead to the transformation of the Commission into a complaints department, instead of assisting the Commission in its work, and suggested that the proposed paragraph be omitted.

Mr. WU (China) was of the opinion that under this paragraph writers would be discouraged from sending in their complaints for fear of reprisals, and was against its inclusion.

Mr. FERRY (New Zealand) pointed out that there was justification for the amendment if it applied only to petitions from trust territories since the Trusteeship Council had undertaken to deal with such petitions, but as applied to all territories he could not accept it.

Mr. GORE-BOOTH (United Kingdom) said that it would be wrong for a complaint alleging violation of human rights in a Member State, non-member of the Commission, to be discussed without giving that State a chance to express its views.

Mr. VAN DER MANDELE (Netherlands) supported the United Kingdom proposal since he felt it was not possible to give the writers of communications the impression that the matter would be kept secret.

In reply to a query from the Chinese representative regarding the volume and origin of communications received, Professor Humphrey (Secretariat) stated that the majority, with a weekly average of fifty, were received from Member nations. To date there had only been one request to view originals.

Mr. KOTSCHNIG (United States of America) declared that it was not repressive measures that he feared but the volume of work for the Commission, which would be in danger of becoming a grievance board.

He proposed that the question be referred to the Sub-Commission on Discrimination and the Protection of Minorities.

Mr. AHMAD (India) felt that the Secretary-General's confidential list should be made available to Member States. There would be no question of reprisals, since the list submitted would only contain a brief indication of the substance of complaints.

DECISION: On the suggestion of Mr. DAVIDSON (Canada) further discussion of the point was postponed until consideration of paragraph (c).

Paragraph 23 of the Report of the Commission on Human Rights (Document E/2594) and New Zealand Amendment (Document E/AC.7/24).

The CHAIRMAN introduced paragraph 23 of the Report and the last paragraph of the New Zealand amendment for discussion since paragraph 22 of the Report had been covered by the New Zealand introduction (document E/AC.7/24) which the Commission had accepted.

Mr. MALIK (Lebanon) commented on the three points on which the New Zealand amendment differed from paragraph 23 of the Report.

The creation of a standing committee of the Commission had been discussed and rejected by the Commission as tending to inform the world of the existence of a complaints department, whereas the intention was to save the Commission's time by bringing to its attention such communications as would assist it in its work. He suggested that the paragraph be redrafted in that light.

In his opinion the final phrase of the New Zealand amendment was unnecessary, since the terms of reference of the Commission included "anything concerning human rights".

Mr. PERRY (New Zealand) accepted the proposed amendments.

Mr. AHMAD (India) proposed a text based on the New Zealand amendment and incorporating the Lebanese proposals concerning a formal committee, with the addition of the phrase "and of deciding which of these communications in original should be made available to members of the Commission on request" instead of the final phrase. The decision would be based on the confidential list compiled by the Secretariat and would therefore not conflict with paragraph (c) if that paragraph were accepted as proposed by the delegation of New Zealand.

Mr. STOLZ (Czechoslovakia) pointed out that the list was intended as a guide for the Commission.

Mr. DAVIDSON (Canada) suggested that a reference to paragraph (c) would clarify the last phrase, and that the words "in future" could be deleted.

As to the first part, he preferred the creation of a formal committee since it was more orderly to constitute a body than to name odd members.

Mr. GORE-BOOTH (United Kingdom) welcomed the Indian proposal.

Mr. BORISOV (Union of Soviet Socialist Republics) proposed adjournment of the meeting in order that members might have an opportunity of studying the numerous amendments proposed in the course of the discussion.

DECISION: The Committee decided that the Drafting Sub-Committee created to discuss paragraph 21(d) should also consider paragraphs 21(c) and 23 of the Report of the Commission on Human Rights in the light of the discussion which had taken place, and that the representative of India should also be a member of the Drafting Sub-Committee.

The meeting rose at 6:05 p.m.