

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/SR.407
9 October 1953

ENGLISH
Original: ENGLISH and
FRENCH

Dual Distribution

COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SEVENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 29 May 1953, at 11.00 a.m.

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Commission to the Economic and Social Council (item 22 of
the agenda)

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Present:

Chairman: Mr. CASSIN (France), First Vice-Chairman

Rapporteur: Mr. KAECKENBEECK (Belgium)

Members:

Mr. WHITLAM	Australia
Mr. CHENG PAONAN	China
Mr. JUVIGNY	France
Mr. HARFOUCHE	Lebanon
Mr. INGLÉS	Philippines
Mr. DRUTO	Poland
Mrs. RÖSSEL	Sweden
Mr. KRIVEN	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America
Mr. PEROTTI	Uruguay
Mr. JEVREMOVIĆ	Yugoslavia

Representative of a specialized agency:

International Labour
Organisation Mr. BLAMONT

Representatives of non-governmental organizations:

Category A

World Federation of United
Nations Associations Mr. de MADAY

Category B

Agudas Israel World
Organization Mr. SAFRAN

Representatives of non-governmental organizations (continued):

Category B (continued)

International Federation of
Business and Professional
Women

Mrs. SCHRADER-RIVOLLET

International Union for
Child Welfare

Mrs. SMALL

Pax Romana

Miss ARCHINARD

Women's International
League for Peace and
Freedom

Mrs. BAER

World Union of Catholic
Women's Organizations

Miss de LUCY-FOSSARIEU

Secretariat

Mr. Das }
Mrs. Bruce }

Secretaries to the Commission

CONSIDERATION OF DRAFT REPORT OF THE NINTH SESSION OF THE COMMISSION TO THE ECONOMIC AND SOCIAL COUNCIL (item 22 of the agenda)

The CHAIRMAN drew attention to Chapters I and II of the draft report of the ninth session of the Commission to the Economic and Social Council.⁽¹⁾

Chapter I - Organization of the session.

At the suggestion of the RAPPORTEUR, the French text of paragraph 10, line 3, was amended to read "Organization Internationale du Travail: M.C.W. Jenks, Sous-Directeur Général".

Chapter II - Agenda

At the suggestion of the RAPPORTEUR, paragraphs 22 and 23, were amended to read:

"The Commission also considered items 4, 5, 7, 11 and 20 (a) of its agenda.

Further consideration of items 3, 7 and 11 and examination of the other items of the agenda was deferred".

Chapters I and II of the report, as amended, were adopted.

The CHAIRMAN drew attention to Chapter III and Annex III.

Mr. CHENG PAONAN (China) suggested that, beginning with Chapter III, the report be taken paragraph by paragraph, to make it easier for members of the Commission to formulate their observations. He wished to pay a tribute to the excellent way in which the Rapporteur had presented the report.

The Chinese representative's suggestion was adopted.

Chapter III - Draft international covenants on human rights and measures of implementation

Paragraph 1

At the suggestion of Mr. HOARE (United Kingdom),

line 12 was amended to read:

"... and political nature, drafted at the sixth session, with a view to including..."

and lines 22 and 23 were amended to read:

"... individuals and organizations with respect to alleged violations of the covenant; consideration, in the drafting of measures of implementation, of a number ..."

(1) The draft report was issued as a working paper with limited distribution, for the use of those attending the session, under the symbols E/CN.4/L.298 and Addenda 1-5 thereto.

Paragraph 2

At the request of Mr. JEVREMOVIĆ (Yugoslavia),
it was decided to insert footnotes after the words "(section A)" in line 12 and "(section B)" in line 17 to the effect that the distribution of articles was only provisional, pending a pronouncement of the Commission on that point.

Paragraph 3

Paragraph 3 was adopted without discussion.

Paragraph 4

After some discussion, in which Mr. JUVIGNY (France), Mr. MOROSOV (Union of Soviet Socialist Republics), Mr. HOARE (United Kingdom) and Mr. JEVREMOVIĆ (Yugoslavia) took part,

it was decided to reword paragraph 4 to read:

"At the ninth session the Commission drafted a number of articles dealing with additional rights for inclusion in the draft Covenant on Civil and Political Rights using as a basis the proposals submitted at previous sessions. It was not able, however, to discuss draft additional articles, such as that concerning the right of property (see Annex II, section A), which might be inserted in the draft Covenant on Economic, Social and Cultural Rights, consideration of which the French representative had not requested at this session. The Commission drafted certain articles for the implementation of the Covenant on Civil and Political Rights on the basis of the provisions relating to the measures of implementation, particularly the Human Rights Committee (E/2256, Annex I, Section D, Part IV), which had been drawn up at the sixth session and revised at the seventh. The Commission entrusted the Rapporteur with the task of eliminating discrepancies between the English and French texts adopted by the Commission and of provisionally determining the order of the articles. He presented his suggestions in documents E/CN.4/L.264, E/CN.4/L.264 Add. 1-2 and E/CN.4/L.289"

Paragraph 5

At the suggestion of Mr. HOARE (United Kingdom), the word "other" was deleted from the first line of paragraph 5, and the second sentence was reworded to read:

"Nor was it able to examine the provisions relating to the system of periodic reports (E/2256, Annex I, Section D, Part V) and the question of its application to the two Covenants (see paragraph and E/CN.4/SR.379 and 390)".

Mr. JEVREMOVIĆ (Yugoslavia) proposed the deletion of the third sentence in its entirety, on the ground that the Commission had taken no formal decision on the issue.

After a lengthy discussion in which the RAPPORTEUR, Mr. CHENG PAONAN (China), Mr. HOARE (United Kingdom), Mr. MOROSOV (Union of Soviet Socialist Republics) and Mr. PEROTTI (Uruguay) took part,

Mr. MOROSOV (Union of Soviet Socialist Republics) proposed the following text for the last sentence of paragraph 5:

"The draft protocol on petitions from individuals and non-governmental organizations was withdrawn by its sponsor. The representative of Uruguay maintained his proposal relating to the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights (for text see annex II, section D) but, considering that the Commission would not have the necessary time to discuss his proposal, did not insist on its being examined at the ninth session."

The Soviet Union proposal was adopted by 6 votes to 4, with 2 abstentions.

Paragraph 6

At the request of Mr. HOARE (United Kingdom), it was decided to substitute the words "whether time could be given" for the words "whether priority should be given" in the first line.

Mr. MOROSOV (Union of Soviet Socialist Republics) proposed that the third sentence be amended to read:

"Reference was made by the Chairman to the fact that the text of the article on the territorial application of the Covenant of the General Assembly was included in the annex of the report relating to both covenants (E/CN.4/SR.391); it followed therefrom that that article was considered as being applicable to both draft covenants."

It was so agreed.

At the suggestion of Mr. MOROSOV (Union of Soviet Socialist Republics), modified by the CHAIRMAN,

it was agreed that the remainder of the draft report should be taken by sections or groups of related articles.

Paragraph 7

Mr. HOARE (United Kingdom) pointed out that Part IV, which it was intended should be incorporated in Section B, was not mentioned in paragraph 7.

It was decided to adopt the following wording for the third clause in paragraph 7:

"Section B contains the provisions of the draft Covenant on Civil and Political Rights, as prepared at the eighth session, together with provisions on implementation (Part IV, Articles) and additional articles (Articles) prepared at the ninth session."

Paragraphs 8 - 14

Paragraphs 8 - 14 were adopted without discussion.

Paragraph 15

At the request of Mr. HOARE (United Kingdom), the last sentence was amended to read:

"It was unable, in the time at its disposal, to comply with the rest of the resolution."

Paragraphs 16 - 31

Paragraphs 16 - 31 were adopted without discussion.

Paragraph 32

On the proposal of Mr. MOROSOV (Union of Soviet Socialist Republics), the opening words were amended to read:

"The majority of the members argued that the term 'minorities' should be understood"

Paragraphs 33 - 38

Paragraphs 33 - 38 were adopted without discussion.

Paragraph 39

At the proposal of Mr. JUVIGNY (France), it was agreed to amend the second sentence of paragraph 39 to read:

"It was clear that the proposal was intended to cover all civil and political rights, and in particular the rights of women in the family, whether set forth in the draft Covenant on Civil and Political Rights or not."

Paragraphs 40 - 44

Paragraphs 40 - 44 were adopted without discussion

Paragraph 45

After an exchange of views between Mr. JUVIGNY (France) and Mr. HOARE (United Kingdom),

it was decided to amend the last sentence of paragraph 45 to read:

"Such an article could only lay down a general rule, leaving all exceptions thereto and methods of application thereof to the legislation of each contracting State,"

Paragraphs 46 to 53

Paragraphs 46 to 53 were adopted without discussion.

Paragraph 54

Mr. HOARE (United Kingdom) suggested the following text for paragraph 54:

"A number of representatives questioned the wisdom of any mandatory requirement of legislation against propaganda; they feared that such a mandate might be used to justify the institution of censorship and the suppression of the free exchange of ideas. They also thought that, while 'an incitement to violence' was a definable legal concept, 'an incitement to hatred' was a subjective notion that could not easily lend itself to legal action. Another suggestion was that 'incitement to hatred and violence', with its cumulative interpretation, might be a more appropriate concept."

The United Kingdom proposal was adopted.

Paragraphs 55 to 63

Paragraphs 55 to 63 were adopted without discussion.

Paragraph 64

At the proposal of Mr. Hoare (United Kingdom),

it was agreed that the word "latter", in paragraph 4 of the article quoted in paragraph 64, should be replaced by the words "last mentioned".

Paragraph 65

Paragraph 65 was adopted without discussion.

Paragraph 66

Mr. MOROSOV (Union of Soviet Socialist Republics) pointed out that paragraph 66 failed to give a complete picture of the general discussion on the measures of implementation in the draft covenant on civil and political rights. The Soviet Union delegation had maintained a consistent attitude throughout that debate, but had not participated in the discussion on every article. The outcome of

the Rapporteur's article-by-article analysis of the discussion was that there was no indication of the Soviet Union position in the case of articles on which its representative had not spoken.

Mr. KRIVEN (Ukrainian Soviet Socialist Republic) and Mr. DRUTO (Poland) associated themselves with the remarks of the Soviet Union representative.

The RAPPORTEUR agreed to insert a suitable sentence in paragraph 66.

Paragraph 67

Paragraph 67 was adopted without discussion.

Paragraph 68

As the result of suggestions made by Mr. CHENG PAONAN (China) and Mr. INGLÉS (Philippines),

it was agreed that, from the third sentence onwards, paragraph 68 should be amended to read:

"The smaller countries would not have a sufficient representation, since it was likely that each of the five permanent members of the Security Council might have one of their candidates chosen. Some members thought, however, that, since the members of the Committee would be chosen primarily for their personal qualities, it was by no means certain that a candidate from each of those permanent members would be chosen. Indeed, there was no question of representation of States in the Committee, but one of individual capacity. It was also argued that there might be some division of work among the members of the Committee. Moreover, fact-finding would require a larger number than conciliation proper, which might be entrusted to the Chairman alone or to a sub-committee."

Paragraph 69

It was agreed to amend paragraph 69 to read:

"It was pointed out that the original draft was already a compromise and the Commission decided to endorse the number of nine (see Art.)."

Paragraphs 70 and 71

Paragraphs 70 and 71 were adopted without discussion.

Paragraph 72

Mr. HOARE (United Kingdom) proposed the following wording for the second sentence of the English text only:

"On the other hand, it was recognized that the scope of appointments to the Committee should include a wider range of persons such as statesmen, historians, etc., as well as jurists, and that, therefore, the second sentence should be retained as a useful indication to the International Court of Justice which was entrusted with the election."

The United Kingdom proposal was adopted.

Paragraphs 73 and 74

Paragraphs 73 and 74 were adopted without discussion.

Paragraph 75

At the request of Mr. CHENG PAONAN (China),

it was agreed to amend the third sentence of paragraph 75 to read:

"The draft of the article prepared at the sixth session, which had provided for election by the States Parties to the Covenant, had been changed in favour of election by the International Court of Justice on the grounds that elections should not be the monopoly of a group of States, however directly interested."

At the request of Mr. MOROSOV (Union of Soviet Socialist Republics)

it was agreed that the fourth and fifth sentence should be amended to read as follows:

"Certain members stated that the International Court of Justice was an independent and impartial body, unaffected by political considerations, and highly qualified to pass judgment on a person's abilities and character. Other members pointed out that there was no question about the impartiality of the General Assembly, which elected members to the principal organs of the United Nations, including the judges of the International Court of Justice".

Paragraph 76

At the request of Mr. JUVIGNY (France),

it was agreed to amend the second sentence of the French text only to read:

"D'autres, au contraire, ont fait observer que bien que la Cour ne soit pas juridiquement tenue de procéder à ces élections, il n'y avait aucun obstacle constitutionnel qui l'empêchât, si elle le voulait, d'assumer cette tâche d'ordre gracieux".

Paragraph 77

Paragraph 77 was adopted without discussion.

Paragraph 78

On the proposal of Mr. CHENG PAONAN (China),

it was agreed to adopt the same wording for paragraph 78 as for paragraph 81.

Paragraph 79

Paragraph 79 was adopted without discussion.

Paragraph 80

At the suggestion of Mr. HOARE (United Kingdom),

it was agreed that the actual number (15) of the full International Court of Justice should be mentioned in paragraph 80.

Paragraphs 81 to 86

Paragraphs 81 to 86 were adopted without discussion.

Paragraph 87

At the suggestion of Mr. HOARE (United Kingdom),

it was agreed to amend the third sentence of paragraph 87 to read:

"They admitted that diplomatic privileges and immunities might be of wide scope, but believed that the inclusion of the words 'when engaged on the business of the Committee' furnished Governments with sufficient safeguards".

Paragraph 88

Mr. INGLÉS (Philippines) pointed out that, as used at the end of paragraph 88, the word "experts" appeared to have a pejorative implication, whereas many members of the Commission had considered that members of the Committee should, because of their eminence, be accorded diplomatic immunities and privileges broader than those usually granted to experts under the Convention on Privileges and Immunities of the United Nations.

After a further exchange of views between him and the RAPPORTEUR,

it was agreed to add the words "within the meaning of the Convention" at the end of paragraph 88.

Paragraphs 89 and 90

Paragraphs 89 and 90 were adopted without discussion.

The meeting rose at 1.10 p.m.