

**ECONOMIC
AND
SOCIAL COUNCIL****CONSEIL
ECONOMIQUE
ET SOCIAL**E/CN.4/SR.21
10 February 1947
ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

Held at Lake Success, New York, on Monday, 10 February 1947
at 10:00 a.m.

Present:

Chairman: Mrs. Roosevelt (United States of America)

Vice-Chairman: Dr. P.C. Chang (China)

Rapporteur: Dr. Charles Malik (Lebanon)

Col. William Roy Hodgson (Australia)

Mr. Felix Nieto Del Rio (Chile)

Dr. Osman Ebeid (Egypt)

Dr. Cassin (France)

Mrs. Hansa Mehta (India)

Dr. Ghassame Ghani (Iran)

Mr. Charles Dukes (United Kingdom)

Mr. V.F. Tepliakov (Union of Soviet Socialist
Republics)

Mr. Jose A. Mora (Uruguay)

Mr. Ribnikar (Yugoslavia)

Substitutes: Mr. Lebeau (Belgium)

Mr. Guasdia (Panama)

Col. Amado Bautista (Philippine Republic)

Representatives of Specialized Agencies:

Mr. Eric W. Hutchison (International Labour
Organization)

Mr. G.L. Carnes (UNESCO)

Non-Governmental Organizations:

Miss Toni Sender (American Federation of Labor)

Miss Lena Spiegel (World Federation of Trade
Unions)

Secretary of the Commission:

Prof. J.P. Humphrey (Director, Human Rights
Division)

1. Discussion of the Draft Report to the Economic and Social Council (document E/CN.4/19), United States Proposals regarding a Sub-Commission on Freedom of Information and of the Press (document E/CN.4/7) and a Sub-Commission on Protection of Minorities and Prevention of Discrimination. (document E/CN.4/6)

The CHAIRMAN suggested that the Rapporteur should submit the Report of the Commission on Human Rights to the Economic and Social Council at its next session, and pointed out that the Commission should fix the date and place of its next session. She asked members of the Commission who might have suggestions to place before the Drafting Group to send them in as soon as possible to that group or to her.

Mr. TEPLIAKOV (Union of Soviet Socialist Republics) said that the Vice-Chairman should submit the Report of the Commission to the Economic and Social Council in the absence of the Chairman.

Mr. HUMPEREYS (Secretary of the Commission) pointed out that Rule 44 of the Rules of Procedure laid down that the Report of the Commission should be presented to the Council by the Chairman or by the Rapporteur, or both, as the Commission might decide.

Mr. TEPLIAKOV (Union of Soviet Socialist Republics) suggested that the Working Group should keep the Commission informed as to the progress of its work. Referring to the right of members to submit suggestions to the Working Group, he pointed out that he had already made a reservation regarding the presentation of a draft International Bill of Rights by his Delegation.

The CHAIRMAN said that the Working Group had been asked to prepare a preliminary draft Bill of Rights, and it was probable that that draft would not be ready until the latter part of March, and at that date only would it be possible for the Group to inform the Commission as to the progress made.

She asked whether there were any objections to Rule 40 of the Rules of Procedure being waived.

DECISION: As there were no objections, Rule 40 of the Rules of Procedure of the Commission on Human Rights was suspended during the final meetings of the present session.

Mr. CASSIN (France) moved that the Rapporteur should present the Report of the Commission to the Economic and Social Council in the absence of the Chairman.

/DECISION:

DECISION: The motion was carried.

Referring to a remark by the CHAIRMAN, who suggested that the Commission should discuss the United States proposals regarding a Sub-Commission on Freedom of Information and of the Press, (document E/CN.4/7) and a Sub-Commission on Protection of Minorities and Prevention of Discrimination (document E/CN.4/6), Mr. MALIK (Lebanon), Rapporteur, said that those two reports had been included in Chapters III and IV of the draft Report (document E/CN.4/19).

Mr. Malik read Chapter III of the draft Report of the Commission on Human Rights, and points (a) and (b) thereof were unanimously approved.

The CHAIRMAN speaking as representative of the United States of America, said that there had been considerable discussion regarding the composition of the Sub-Commissions, and it was the view of the United States Government that agreement would not be reached on that question during the present session of the Commission. Her government suggested that each of the Sub-Commissions should be composed of 11 persons selected by the Commission in consultation with the Secretary-General, and subject to the consent of the Governments of the countries of which the persons were nationals. Not more than one person should be selected from any single country and the choice should be made from among a list of persons submitted by such members of the Commission on Human Rights who wished to make nominations. In the case of the Sub-Commission on Protection of Minorities and Prevention of Discrimination, the persons should be chosen by the Commission on Human Rights at its second session, and in the case of the Sub-Commission on Freedom of Information and of the Press the choice should be made by the Economic and Social Council at its fourth session. Mrs. Roosevelt referred to documents E/CN.4/6 and 7, and pointed out that paragraph 2 of the latter document should be deleted as it had been agreed by the Commission that the term should now be two years. Paragraph 2 under the sub-heading Composition on page 2 of document E/CN.4/6 should also be deleted. In the second line of paragraph 3 of the same document the words "Commission on Human Rights at its second session" should be deleted and the word "Economic and Social Council at its fourth session" substituted.

The formula now proposed by the United States Government had been adopted by the Statistical Commission. Each member of the Commission on Human Rights should submit a list of names, and it was the United States Government's opinion that, due consideration being given to geographical distribution, it was essential to have the best men possible for the task in hand. However, Governments would not be committed to sending experts. In connection with the Sub-Commission on Protection of Minorities and Prevention of Discrimination, the Commission would have until its next session to consider nominations. As regards the Sub-Commission on Freedom of Information and of the Press, it was probable that the Economic and Social Council would entrust the task of working out a programme for the Conference to that Sub-Commission, and therefore the Sub-Commission should be established as soon as possible. However, it could not be set up until the end of the Economic and Social Council's next session.

Mrs. Roosevelt proposed that paragraph 3 of Chapter III of the Rapporteur's report (document E/CN.4/19) should be amended as follows: delete sub-paragraphs (a), (b) and (c) and substitute in their place paragraphs 1 and 3 under "Composition" (page 2 of document E/CN.4/7) with the substitution of the words "Economic and Social Council at its fourth session" for "the Commission on Human Rights at its second session". She also proposed that Chapter IV, paragraph 3 of the Rapporteur's Report should be similarly amended.

Mr. MALIK (Lebanon), Rapporteur, read sub-paragraphs (b), (c) and (d) of Chapter III of the draft Report. (Document E/CN.4/19)

Replying to Mr. CASSIN (France), the CHAIRMAN said the Commission would first consider the composition of the Sub-Commissions. The draft Report of the Commission suggested that the Commission should first choose eleven countries and then those countries would choose the members for the Sub-Commissions. The United States proposal suggested the deletion of sub-paragraphs (a), (b) and (c) of the Report and the substitution of paragraphs 1 and 3 of document E/CN.4/7, and she proposed that the Commission should first vote on the

method to be used for nominating members to the Sub-Commission on the Freedom of Information and of the Press.

Col. Amado BAUTISTA (Philippine Republic) said that his Government supported the view expressed by the representative of the United States of America, and pointed out that the Philippine Government felt that the Sub-Commission should be composed of non-governmental representatives. However, every effort should be made to observe geographical distribution.

Mr. LEBEAU (Belgium) and Mr. MORA (Uruguay) supported the proposal of the representative of the United States of America amending the draft report of the Commission.

Replying to Mrs. MEHTA (India), the CHAIRMAN said that nominations would not have to be made immediately. The members of the Commission on Human Rights should make nominations up to whatever number the Commission decided upon, and those nominations would be submitted to the Council at its next session. The Economic and Social Council, with the consent of the Governments concerned, would then choose the members of the Sub-Commission.

Mr. TEPLIAKOV (Union of Soviet Socialist Republics) said that the Sub-Commission should be an organ of the United Nations and therefore its members should be representatives of their respective Governments. If the members chosen were not Government representatives, then difficulties might arise as no one would have authority over such members. The Commission was bound by the Charter and should not seek to set up a private organization within the Commission.

Mr. MALIK (Lebanon) said that his Government had always considered that not only members of Sub-Commissions but also those of Commissions should be experts. The representatives of Belgium and the Lebanon had supported that point of view in the meetings of the Economic and Social Council. The members of the Sub-Commission should be able to carry out objective

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work independently of instructions from their Governments. Their findings and recommendations could then be passed on by the Commission on Human Rights and debated thoroughly by that Commission and the Economic and Social Council. He strongly supported the proposal of the United States Government, but wished to know whether the right of selection of members should be entrusted to the Economic and Social Council. He felt it was the duty of the Commission to appoint the Sub-Commissions, and he suggested that a special resolution should be adopted requesting the Economic and Social Council to make a selection of members on the Commission's behalf.

The CHAIRMAN pointed out that under the United States' proposal Governments would have to approve of nominations made by the Economic and Social Council.

Mr. HODGSON (Australia) considered that the time was not yet opportune for the setting up of a Sub-Commission. The Press Conference to be called would naturally wish to create its own permanent machinery, and there might be duplication and overlapping. Although opposed to the setting up of a Sub-Commission, he would abide by the Rapporteur's Report, which had been agreed to by the majority of the Sub-Commission.

Mr. DUKES (United Kingdom) supported the proposal of the United States representative as it meant that all Governments were free to submit names to the Economic and Social Council, and he considered that the method envisaged was calculated to give a wider scope of selection. Although experts might be nominated who were not members of their Governments, yet they would receive directives from those Governments.

Mr. CASSIN (France) supported the Rapporteur's report. He considered that the method of nominating members to Sub-Commissions should not be changed and that the Commission should accept the Report as it stood.

/Mr. CHANG

Mr. CHANG (China) agreed with the representative of Australia and suggested that the Commission should postpone the setting up of Sub-Commissions until its next session, but if the Sub-Commission on Freedom of Information and of the Press was considered more urgent, then the report of the Rapporteur should be approved and that Sub-Commission set up immediately.

Mr. TERLIKOV (Union of Soviet Socialist Republics) considered that the representative from the United Kingdom was now expressing different views from those he had expressed on the Sub-Committee.

Those members who favoured the proposal of the representative from the United States of America had stressed the need for experts qualified to examine the many difficult problems before the Commission. He would point out in that respect that there was no expert in any field who was better known outside his country than by his own government. If the proposal of the representative from the United States of America was adopted, the Sub-Commissions thus set up would be private organizations within the framework of United Nations, in direct contradiction of the Charter.

He had heard with regret the proposal of the representative from China that the establishment of a Sub-Commission on Prevention of Discrimination and Protection of Minorities should be postponed, for those matters would constitute the main items of the International Bill of Human Rights which was to be drawn up. If the Sub-Commission was to be postponed, any attempt to create such a Bill might as well be postponed too.

Lastly, from the point of view of the Union of Soviet Socialist Republics, the Lebanon suggestion that the Economic and Social Council should be asked to select the members of the Sub-Commission was not in order. The Sub-Commission would be an organ of the Commission and the Commission could not ask any other body to select members on its behalf.

In view of those considerations, he urged the Commission to uphold the recommendations of the Sub-Committee.

/Mrs. MEHTA

Mrs. MEHTA (India) saw no wisdom in postponing a decision. If members were to consult their governments before submitting nominations, she said, that would virtually mean governments selecting names to be proposed, which would defeat the object of the United States proposal.

The CHAIRMAN explained that each member would have the right to submit a panel of names, the number to be agreed upon later. Members could consult their governments if they so wished, and it was hoped that governments would consider people from other countries as well as from their own. The Economic and Social Council would then make its choice from the names submitted, bearing in mind the importance of geographical distribution. To the objection of the representative from the Union of Soviet Socialist Republics, the CHAIRMAN replied that the Council would consider all the lists submitted and select the best people, and that it was highly probable that many countries might nominate the same people.

Col. HODGSON (Australia) moved the following amendment:

"That the composition of the Sub-Commission on Freedom of Information and the Press be deferred until the next session of this Commission and that in the meantime the Governments of members of the Commission be invited to submit nominations for the Sub-Commission".

He considered it unnecessary to set up a Sub-Commission at the present stage, and thought that the Commission would be in a better position to do so after the next session of the Economic and Social Council.

DECISION: The Australian amendment was defeated by eight votes to one.

A vote by roll call was taken on the United States proposal with regard to the method only of composition of the Sub-Commission, the question of members to be decided later.

For the United States
of America Proposal

Chile
Egypt
Iran
Lebanon
United Kingdom
United States of America
Uruguay

Against the United States
of America Proposal

Australia
China
France
India
Union of Soviet
Socialist Republics
Yugoslavia

/DECISION:

DECISION: The United States proposal was adopted by seven votes to six.

A discussion then arose as to how to delegate to the Economic and Social Council the task of selecting members of the Sub-Commission.

Col HODGSON (Australia) objected that the Commission could only refer a question to the Council, and was not authorized to dictate to the Council how to select the Sub-Commission. To say that nominations were to be limited to members of the Commission would be to undermine the whole principle of the United States proposal.

The CHAIRMAN explained that the intention of the United States proposal was to get as wide a nomination as possible from all members of the Commission, and to delegate to the Economic and Social Council only the right to choose from those nominations.

Mr. CHANG (China) said there might not be time to receive nominations from certain distant areas, and the Council would be faced with the responsibility of choosing from perhaps some hundred names, while several important geographical sections might not figure among the nominations.

Mr. DEL RIO (Chile) suggested that the words "regardless of nationality" should be inserted after the word "individual" in paragraph 3 of the section on Composition in document E/CN.4/7.

The CHAIRMAN did not think that necessary, but agreed to accept it.

Mr. M'LIK (Lebanon) stressed that it must be made clear that the selection of members of the Sub-Commission was delegated to the Economic and Social Council for that occasion only. He proposed therefore to alter paragraph 3 (which, with the deletion of the original paragraph 2 had become paragraph 2) to read as follows:

"The Commission recommends that in the first instance and without serving as precedent, the Economic and Social Council choose the members of the Sub-Commission. It further recommends that the choice be made from among a list of individuals regardless of nationality

/submitted

submitted by such Human Rights Commission members as care to make nominations, each member being authorized to nominate x names, not more than x from each country."

Col. HODGSON (Australia) asked the representative of China, since he was also a representative of the Economic and Social Council whether it was a fact that it was not because of difficulties of communications or through inadvertence that many important governments had refused to submit nominations, but as a matter of principle, and whether consequently, if the method under discussion were to be adopted, it would be impossible for the Economic and Social Council to carry out the intentions of the Commission.

Mr. CHANG (China) said the reasons for nominations not coming in had never been clearly stated.

Mr. CASSIN (France) suggested that the representative from Belgium should give his opinion as to whether the text suggested was practical.

Mr. LEBEAU (Belgium) said that, since other permanent Commissions of the Council were facing the same problem, it would be helpful to hear from the Secretary how they were dealing with it.

Upon Mr. HUMPHREY (Secretary of the Commission) replying that he could obtain such information very quickly, the CHAIRMAN suggested that the Commission should pass to the discussion of numbers.

Mr. CASSIN (France) suggested the substitution of the number twelve for the number eleven appearing in paragraph 1 and 3. It had been proved that equitable geographical representation could not be achieved with eleven members. Moreover, the problem had been discussed at meetings of the Nuclear Commission, which in its report to the Economic and Social Council had recommended that the Sub-Commission on Freedom of Information and of the Press should be composed of twelve members.

The CHAIRMAN put to the vote the proposal of the representative from France that the Sub-Commission on Freedom of Information and of the Press

/should

should be composed of twelve members.

DECISION: The proposal was adopted unanimously.

The CHAIRMAN announced that the Commission would proceed to the consideration of the term of office of members, suggested as two years in the report of the Sub-Committee.

Mr. CHUNG (China) made a formal amendment to change the term of office from two years to one year, especially in view of the preparation for the Conference. The matter could be reconsidered at the end of one year.

Mr. MALIK (Lebanon) opposed the amendment, pointing out that the Sub-Commission would be a permanent organ of the Commission and its connection with the forthcoming Conference only passing and accidental. Whatever was decided at the Conference, there must be some organ permanently attached to the Commission to look after that important field of human rights.

The CHAIRMAN said that her government had originally preferred three years, but had accepted two years in the Sub-Committee. She would not want a shorter period than that.

Mr. TEBELIAKOV (Union of Soviet Socialist Republics) supported the amendment of the Chinese representative, on the grounds of the close connection of the Sub-Commission with the decisions of the Conference. The Commission might wish to reconsider the matter when the Conference was over.

He pointed out that although the representative from the Lebanon alluded to the Sub-Commission as an organ of the Commission, he considered that since the adoption of the principle in the United States proposal, it had become a private organ within the framework of the United Nations.

Col. HODGSON (Australia) supported the Chinese amendment. It was not mandatory on the Commission to set up the Sub-Commission and the Sub-Commission would not necessarily be a permanent body of the Commission. The Press Conference might well set up its own machinery, and there would then be two bodies operating in the same field. He considered it therefore

/advisable

advisable to be able to review the position after one year.

The CHAIRMAN, speaking as the representative from the United States of America, reminded members that she had always argued that freedom of information had a direct bearing on human rights, in that without freedom of information it was possible for human rights to be violated in any part of the world without its coming to the knowledge of the world. The Conference would not take up any special aspect of human rights, but the Commission had that special interest.

Upon being asked by Mr. TRPLIAKOV (Union of Soviet Socialist Republics) whether she considered that in any country where there was freedom of the Press and information, there was no violation of human rights, she replied that the great difference was that such violation was known about in countries which had freedom of the Press.

Mr. HILIK (Lebanon) pointed out that since the second of the terms of reference of the Commission was concerned with Freedom of Information and of the Press, the statement of the representative of Australia concerning the possibility of there being no connection between human rights and freedom of information and the press was not borne out. Moreover, when the representative of Australia had said that the Conference might set up its own machinery, he had appeared to suppose that the Conference was an entity by itself, whereas it would be called by the Economic and Social Council and answerable to that body, which would see that there was no duplication of machinery.

Mr. CHANG (China) pointed out that the terms of reference of the Sub-Commission were to examine what rights, obligations and practices should be included in the concept "Freedom of Information". It should be possible to make some headway on that subject in one or two sessions, and the Commission might wish to change the terms of reference after one year.

Furthermore, he did not consider it practical to set up permanent

/Sub-Commissions,

Sub-Commissions, as the budget might make that impossible.

Col HODGSON (Australia) drew the attention of the Commission to the fact that the terms of reference of the Sub-Commission and those of the Press Conference were practically identical.

DECISION: The Chinese amendment, for the term of office of members of the Sub-Commission to be one year only, was adopted by seven votes to three.

Mr. HUMPHREY (Secretary of the Commission) informed the Commission that the only Sub-Commission set up at the present session of Commissions was the Sub-Commission on Statistical Sampling, set up by the Statistical Commission.

He proceeded to read an extract from the Report of the Statistical Commission (document E/CN.3/20/Rev.1, page 5) which stated that in accordance with the authorization given to it by the Economic and Social Council the Statistical Commission had established a Sub-Commission on Statistical Sampling and had requested the Secretary-General to invite various persons to serve as members. He added that there were also Sub-Commissions on the Economic and Employment Commission set up directly by the Council at its last session.

In answer to a question from Mr. CHANG (China) as to whether those sub-commissions had been chosen already and what decision had been reached by the Economic and Employment Commission, Mr. HUMPHREY said that according to the draft report before him the members had not yet been appointed.

Mr. CHANG (China) suggested that in view of the difficulty of referring the matter to the Council, it might be advisable to have a meeting of the sub-committee of seven, to talk the matter over before the afternoon meeting.

That being agreed upon, the meeting rose at 1:00 p.m.
