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COMMISSION ON HUMAN RIGHTS

Twenty-second Session

SUMMARY RECORD OF THE EIGHT HUNDRED AND NINETYETH MEETING

Held at Headquarters, New York,
on Monday, 4 April 1966, at 3.20 p.m.

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Report of the twenty-second session of the Commission to the Economic and Social Council (E/CN.4/L.845 and Add.1-10 and Add.1/Corr.1)

PRESENT:

<u>Chairman:</u>	Mr. K.C. PANT	(India)
<u>Rapporteur:</u>	Mr. QUENTIN-BAXTER	New Zealand
<u>Members:</u>	Mr. SANCHEZ VIAMONTE	Argentina
	Mr. HENNIG	Austria
	Miss WIEGOLD	Chile
	Mr. REDONDO)	Costa Rica
	Mrs. BARISH)	
	Mr. ZOLLNER	Dahomey
	Mr. BOULJET	France
	Mr. SAJJAD	India
	Mrs. AFNAN	Iraq
	Mr. BARROMI	Israel
	Mr. SPERDUTI	Italy
	Mr. RICHARDSON)	Jamaica
	Miss KING)	
	Mr. BODDENS HOSANG	Netherlands
	Mr. LOPEZ)	Philippines
	Mr. NANAGAS)	
	Mr. RESICH	Poland
	Mr. BOYE	Senegal
	Mr. KELLBERG	Sweden
	Mr. NEUBAJLO)	Ukrainian Soviet Socialist Republic
	Mr. CHERNIAVSKY)	
	Mr. NASINOVSKY	Union of Soviet Socialist Republics
	Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
	Mr. ABRAM)	United States of America
	Mrs. NASON)	

Observers for Member States:

Mr. BAL	Belgium
Mr. HANDL	Czechoslovakia
Mr. WILMOT	Ghana
Mr. MIRZA	Pakistan
Mrs. DINCHEN	Turkey
Mr. LAZAREVIC	Yugoslavia

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RECONSIDERATION OF OPERATIVE PARAGRAPH 2 OF THE DRAFT RESOLUTION FOR THE ECONOMIC AND SOCIAL COUNCIL CONTAINED IN RESOLUTION 3 (XXII) OF THE COMMISSION ON HUMAN RIGHTS ON THE PUNISHMENT OF WAR CRIMINALS AND OF PERSONS WHO HAVE COMMITTED CRIMES AGAINST HUMANITY (E/CN.4/L.845/Add.3, para. 57) (continued)

Mr. ABRAM (United States of America), introducing his amendment (E/CN.4/L.859) to the Commission's resolution 3 (XXII), said that the amended text of the resolution would be in line with the usual United Nations practice. Its purpose was to correct an oversight since, as had been shown by the result of the vote on his motion on the subject at the 389th meeting, the Commission had certainly not intended to depart from its usual practice.

Mr. NASIMOVSKY (Union of Soviet Socialist Republics) said that the amendment was an attempt to alter a text which had been adopted unanimously after a long debate. Such an attempt was completely unjustified and could have grave consequences since it implied a violation of normal procedure. Firstly, it was not true that that was the only formula in line with the usual practice. It was not the first time that a United Nations resolution had been addressed to all Governments: it was done, for example, in General Assembly resolution 1779 (XVII) and in many others in which all Governments were requested to apply certain criteria and principles. Furthermore, in the case under consideration it was a question of a substantial change in a resolution on which agreement had been reached after concessions and difficult efforts to achieve a balance. The amendment would cast doubt on the universality of the principle on which the resolution was based and which was to be applied by all States, as they were requested to do in operative paragraph 1 of the resolution. If all States were requested to apply certain measures, they should also be requested to transmit information about the action they had taken. The amendment implied a change in rules 68 and 72 of the rules of procedure of the functional commissions and only the Economic and Social Council was empowered to make such a change. That ill-advised suggestion, just when the Commission was about to conclude its work, was made for one purpose only, namely, to complicate the situation. If it were approved, it would undermine all the agreements reached and all the progress made so far and henceforth it would be pointless to try to arrive at solutions acceptable to the majority, since any delegation might later request a revision of what had been agreed upon. There were various problems for which the solutions

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(Mr. Nasinovsky, USSR)

that had been found were not to the satisfaction of his delegation but it did not propose to request that they should be revised and it would follow the correct procedure, which was to speak against them again in the Economic and Social Council and in the Third Committee of the General Assembly. He therefore proposed that the Commission should take note of the amendment and proceed immediately to the consideration of its report.

Mr. CHERNIAVSKY (Ukrainian Soviet Socialist Republic) said that to adopt the amendment would be a violation of the rules of procedure of the functional commissions of the Council. The United States representative maintained that the formula used in the draft resolution in the Commission's resolution 3 (XXII) was contrary to United Nations practice. That was not so; he mentioned a number of resolutions on political as well as human rights questions which did not include that discriminatory formula but were addressed to all States. In his opinion, the Commission, which dealt with humanitarian questions, should not limit the scope of its decisions by the use of that formula.

Mr. ABRAM (United States of America) pointed out that he was not trying to annul a resolution which had been approved by the Commission or to amend it substantively but to correct a mistake made by the Commission which was probably due to an oversight. It was true that in various resolutions of different United Nations organs appeals were addressed to all States, as was done in operative paragraph 1 of the draft resolution. What could not be done, however, was to invite all States to transmit information to the Secretary-General, who would thus be placed in an impossible position.

Mr. RICHARDSON (Jamaica) said that he would vote against the amendment. There had been no oversight on the part of his delegation, for it had always maintained that the Commission on Human Rights should be freed from the political shackles which hindered its work. The appeals and exhortations which appeared in resolutions were of no avail and in fact the Secretary-General did not transmit them. What really mattered were the steps that were actually taken. If under the present rules it was not possible to address all States, those rules should be promptly changed.

The CHAIRMAN invited the Commission to vote on the United States amendment.

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At the request of the representative of the Union of Soviet Socialist Republics, the vote was taken by roll-call.

Costa Rica, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Costa Rica, Dahomey, France, Israel, Italy, Netherlands, New Zealand, Philippines, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Austria, Chile.

Against: Jamaica, Poland, Senegal, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: India, Iraq, Argentina.

The United States amendment (E/CN.4/L.859) was adopted by 13 votes to 5, with 3 abstentions.

Mr. ZOLLNER (Dahomey), explaining his vote, said that he had been prompted by technical, not political, considerations. If an organ could address all States, whether or not they were Members, certain non-Member States could not be prevented from transmitting reports to the United Nations. Provisions of that kind could be addressed only to States Members of the United Nations, which had undertaken to respect its decisions.

Mr. KELLBERG (Sweden), explaining his vote, said that his delegation had interpreted the expression "all Governments" in the way indicated by the United States amendment. Otherwise the Secretary-General would have been faced with considerable technical difficulties which should clearly be avoided.

Mrs. AFNAN (Iraq) explained that she had abstained in the vote because she had abstained in the voting on the resolution as a whole, in order to maintain her attitude of non-participation in the matter.

Mr. BARROMI (Israel) said that, while he had agreed with the Soviet Union representative that it was undesirable to reopen the debate, he had voted in favour of the United States amendment because the Commission should restrict itself to human rights problems and not allow its resolutions to create precedents in political issues which were not related to the matters within its competence.

Mr. BOYE (Senegal) explained that he had voted in favour of the amendment for purely technical reasons, for he did not consider that invitations could be extended to non-Member States.

Mrs. BARISH (Costa Rica) said that her vote had been based on technical reasons. The Commission should confine itself to matters related to human rights and should not take decisions of a political nature.

The CHAIRMAN invited the Commission to vote on the draft resolution, as amended.

The draft resolution, as amended, was adopted by 19 votes to none, with 2 abstentions.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that the procedure followed in the present case was inappropriate and contrary to the rules of procedure. Henceforth working conditions would be very difficult, since any delegation would be able to challenge the validity of any decision adopted by the Commission on Human Rights. The Soviet Union delegation intended to bring the case before the Economic and Social Council as a violation by the Commission on Human Rights of rules 54, 55, 76 and 77 of its rules of procedure and it would like that fact to be mentioned in the report.

Mr. NEDBAILLO (Ukrainian Soviet Socialist Republic) said that he was in favour of the resolution as a whole. Although the resolution was weaker than it had been before, it still represented a considerable step forward compared with the corresponding resolution of the previous year and could have a positive influence on the practices of States. On the other hand, the amendment that had been adopted was a violation of the rules of procedure, which must be observed more closely in the future if there was to be any order in the conduct of the Commission's work.

REPORT OF THE TWENTY-SECOND SESSION OF THE COMMISSION TO THE ECONOMIC AND SOCIAL COUNCIL (E/CN.4/L.845 and Add.1 to 10 and Add.1/Corr.1)

The CHAIRMAN invited the Rapporteur to introduce the draft report on the work of the Commission's twenty-second session.

Mr. QUENTIN-BAXTER (New Zealand), Rapporteur, said that, once the final text of the report had been agreed on, the Secretariat would insert the relevant numbers in the spaces that appeared in various chapters of the draft. Various stylistic changes had been made in document E/CN.4/L.845 and the name of Mr. Arnaldo Ortiz, the alternate representative of Costa Rica, had been added to the list of members in paragraph 3.

The CHAIRMAN suggested that the Commission should consider the draft report paragraph by paragraph. He requested members who wished to propose amendments to do so when the relevant paragraph was considered.

It was so decided.

Chapter I: Organization of the session (E/CN.4/L.845)

Paragraphs 1 and 2 were adopted without comment.

Mr. NASINOVSKY (Union of Soviet Socialist Republics), referring to paragraph 3, asked on what basis the Organization of American States had been invited to send an observer to attend the Commission's meetings.

Mr. QUENTIN-BAXTER (New Zealand), Rapporteur, explained that the invitation to the Organization of American States had been based on the provisions of General Assembly resolution 253 (III) and Economic and Social Council resolution 412 B (XIII).

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that he would need time to read those resolutions carefully.

Paragraph 3 was left in abeyance subject to the reservation expressed by the Soviet Union representative.

Paragraph 4 was adopted without comment.

Mr. RESICH (Poland) proposed the addition in paragraph 5, after the words "the representative of Poland, at the 852nd meeting, withdrew the nomination of Mr. Nedbailo (Ukrainian SSR)" of the following text: "on the understanding, as stated by the Acting Chairman, that after the necessary consultations, the majority of the members of the Commission had said that they were prepared to support Mr. Nedbailo in the election for the Chairman of the twenty-third session".

Sir Samuel HOARE (United Kingdom) objected to the expression "after the necessary consultations", since his delegation, at least, had not been consulted.

Mr. LOPEZ (Philippines) proposed the addition of the following text: "on the understanding, as stated by the Acting Chairman, that the majority of the members of the Commission were prepared to support the election of Mr. Nedbailo as Chairman of the twenty-third session of the Commission on Human Rights. A number of representatives stated, however, that they could not make such a commitment on behalf of their Governments".

Mr. NASINOVSKY (Union of Soviet Socialist Republics) accepted that text provided that specific mention was made of the countries concerned.

Sir Samuel HOARE (United Kingdom) said that he was opposed to such a procedure because it was not in accordance with the Commission's usual practice.

Mr. RESICH (Poland) said that he approved of the text proposed by the Philippine representative.

Paragraph 5, as amended, was adopted.

Paragraphs 6 to 25 were adopted without comment.

The chapter entitled "Organization of the session" (E/CN.4/L.845), as amended, was approved.

Chapter II: Draft Declaration and draft International Convention on the Elimination of All Forms of Religious Intolerance

Paragraphs 26 to 42 were adopted without comment.

Mr. LOPEZ (Philippines) pointed out that, by mistake, two paragraphs had been given the number 43.

The CHAIRMAN said that the mistake would be corrected in the final text but that, for the sake of convenience, the numbering that appeared in the draft report (E/CN.4/L.845) would be used for the rest of the discussion.

The two paragraphs 43 and paragraphs 44 to 50 were approved.

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Mr. BARROMI (Israel) proposed that, in paragraph 51, the words in brackets should be changed to "para. 40 above".

Paragraph 51, as amended, was adopted.

Mr. LOPEZ (Philippines) made a similar comment with regard to paragraph 52. The reference in brackets should be to paragraph 43, with the understanding that the paragraph concerned was the first of the paragraphs so numbered.

Paragraph 52, as amended, was adopted.

Mr. RICHARDSON (Jamaica) proposed the deletion of the word "amply" in the last line of paragraph 53.

Paragraph 53, as amended, was adopted.

Mr. QUENTIN-BAXTER (New Zealand), Rapporteur, said that a reference to paragraph 47 would be added in brackets in the last sentence of paragraph 54.

Mrs. AFNAN (Iraq) regretted that no mention had been made of the attitude of several delegations regarding the "competent authorities". She would like some reference along those lines to be included in the report.

Sir Samuel HOARE (United Kingdom) thought that the wording would be clearer if, in the second sentence, the words "of that text" were added after the words "paragraph 3".

Mr. NEDBALLO (Ukrainian Soviet Socialist Republic) pointed out that there might be some confusion between paragraph 3 of the text prepared by the working party and paragraphs 3 and 4 of the approved text.

Mr. ZOLLNER (Dahomey) proposed the addition of the following sentence: "Several delegations said that they interpreted paragraph 4 as not limiting the right recognized in paragraph 1."

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that, in that case, another sentence should be included expressing the opinion of some delegation: that, where there was a dispute, the best interests of the child should be the decisive factor.

Paragraph 54 was adopted, subject to the various amendments proposed.

Paragraphs 55 to 61 were adopted without comment.

Chapter II, entitled "Draft Declaration and draft International Convention on the Elimination of All Forms of Religious Intolerance", as amended, was adopted.

Mrs. AFNAN (Iraq) raised a point of order. A letter (E/CN.4/L.860) from a delegation concerning agenda item 8, consideration of which had been completed, had been circulated as a document of the Commission. Without wishing to comment on the contents of the letter, she considered it improper for a delegation to take upon itself the right to interpret an Assembly resolution. The circulation of the document was undoubtedly out of order.

The CHAIRMAN said that, as a matter of courtesy, when a member of the Commission asked that a document should be circulated, that request was granted. The letter in question was in no way related to the discussion nor did it represent the Commission's opinion.

Chapter II: Draft Declaration and draft International Convention on the Elimination of All Forms of Religious Intolerance (continued) (E/CN.4/L.845/Add.1 and Corr.1)

Paragraphs 1 to 14 were adopted without comment.

Mr. NEDBAILLO (Ukrainian Soviet Socialist Republic) proposed that the last part of paragraph 15 should be deleted.

Paragraph 15, as amended, was adopted.

Paragraphs 16 to 18 were adopted without comment.

Mrs. AFNAN (Iraq) expressed her disagreement with the second sentence of paragraph 19, since she considered that some of the amendments proposed in no way improved the text.

Sir Samuel HOARE (United Kingdom) proposed that that sentence should be deleted.

Paragraph 19, as amended, was adopted.

Paragraphs 20 and 21 were adopted without comment.

Paragraph 22 was adopted, subject to drafting changes proposed by the representatives of India and the United Kingdom.

Paragraphs 23 to 25 were adopted without comment.

Mrs. NASON (United States of America) proposed that the word "neo-nazi" in the last sentence of paragraph 26 should be replaced by "anti-Semitic".

Paragraph 26, as amended, was adopted.

Sir Samuel HOARE (United Kingdom) proposed that the wording of paragraph 27 should be amended to read: "Some speakers pointed out that apartheid, unlike anti-Semitism, was enforced by Government decree. Other speakers expressed the opinion that, as anti-Semitism was the prototype of religious intolerance, it should occupy the same place in relation to the draft Convention which apartheid occupied in relation to the Convention on the Elimination of All Forms of Racial Discrimination. It was also pointed out, however, that the Nazi persecution of Jews had also been enforced by Government decree."

Paragraph 27, as amended, was adopted.

Paragraphs 28 and 29 were adopted without comment.

Mrs. AFMAN (Iraq) observed that the last sentence of paragraph 30 might lead to confusion, since it did not mention that the text proposed by Chile had subsequently been revised.

The CHAIRMAN suggested that the reference "(see para. 10 above)" should be deleted and the following final sentence added: "The revised text of that document (see para. 10 above) was adopted."

Paragraph 30, as amended, was adopted.

Paragraphs 31 to 50 were adopted without comment.

Sir Samuel HOARE (United Kingdom) proposed that the last sentence of paragraph 51 should be deleted.

Paragraph 51, as amended, was adopted.

Sir Samuel HOARE (United Kingdom) proposed that the sentence "The insertion proposed by the United Kingdom in paragraph 1 would not add to the clarity, precision or conciseness of the Convention." should be deleted from paragraph 52, in view of the fact that the Commission had agreed to that insertion.

Mr. NASIMOVSKY (Union of Soviet Socialist Republics) considered that the sentence should be retained, since paragraph 52 was a statement of the opinion opposed to the proposal mentioned in paragraph 51.

Sir Samuel HOARE (United Kingdom) withdrew his proposal.

Paragraph 52 was adopted without amendment.

Paragraphs 53 to 64 were adopted without comment.

Mr. SPERDUTI (Italy) proposed that the words "At the request of Italy" in paragraph 65 should be replaced by "At the request of the representative of Italy".

Paragraph 65, as amended, was adopted.

Paragraphs 66 to 93 were adopted without comment.

Chapter III: Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation, and of apartheid, in all countries, with particular reference to colonial and other dependent countries (E/CN.4/L.845/Add.2)

Paragraphs 1 to 13 were adopted without comment.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) proposed that the words "and on the situation in some countries, the Governments of which were practising a policy of apartheid, segregation and racial discrimination against the indigenous population" should be added at the end of the second sentence of paragraph 14.

Paragraph 14, as amended, was adopted.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) expressed his disagreement with the sentence "For independence in itself did not guarantee the rule of law, which alone ensured respect for the inherent rights of every person." in paragraph 15. That sentence appeared to cast doubt on the importance of and necessity for the struggle for independence.

Mrs. AFNAN (Iraq) also objected to the sentence. Newly independent countries might well encounter difficulties in the human rights sphere, but the achievement of independence was the first step towards making those rights effective.

Mr. LOPEZ (Philippines), summing up the various views which had been expressed in the discussion, proposed that the sentence "Other speakers said that in attaining independence colonial peoples had achieved their first victory in the matter of human rights." should be added after the words "countries newly independent" and that the sentence following should read "It was also stated that independence did not guarantee the rule of law, which was necessary to ensure

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respect for the inherent rights of every person.", the remainder of the paragraph being retained as it stood.

Mr. ZOLLNER (Dahomey) proposed that the words "in countries newly independent", which had a pejorative meaning for those countries, should be deleted.

Paragraph 15, as amended, was adopted.

Paragraph 16 was adopted without comment.

Mrs. NASON (United States of America) proposed that the words "in the final analysis" in the third sentence of paragraph 17 should be deleted.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) proposed that the whole of the third sentence should be deleted. If it were not deleted, there should be an indication that it was a United States idea.

Mr. LOPEZ (Philippines) suggested the addition of a few words so that the sentence would begin: "Those amendments were partly based on the belief that the elimination...".

The CHAIRMAN said that, as the delegations which had objected to the sentence had reached agreement, the paragraph would end with the word "aberrations".

Paragraph 17, as amended, was adopted.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that he had a number of objections to make to the second half of paragraph 17 of the existing text and reserved the right to express them later.

The meeting rose at 6.40 p.m.