

COMMISSION ON HUMAN RIGHTSSecond SessionWorking Group on Implementation

Summary Record of Third Meeting held in the Palais des Nations, Geneva, on Saturday, 6 December 1947 at 10 a.m.

Present:

Chairman: Mrs. Hansa MEHTA (India)

Rapporteur: Mr. DEHOUSSE (Belgium)

Members: Colonel W.R. HODGSON (Australia)

Mr. POUREVALY (Iran)

Mr. KLEKOVKIN (Ukrainian S.S.R.)

Specialized Agencies: Mr. de GIVRY (International Labour Office)

Non-Governmental Organizations: Mr. BENTWICH (Consultative Council of Jewish Organizations)

Dr. G.M. RIEGNER (The World Jewish Congress)

Observer: Miss WHITEMAN (United States of America)

Secretariat: Mr. Edward LAWSON

Mr. DEHOUSSE (Belgium) read a letter from Professor CASSIN, which he gave to the Secretariat for translation and distribution. He proposed that the letter should be made an annex to their report.

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He said that he wished to add a further argument in favour of the delegation to the Commission of powers of considering petitions.

Article 68 of the Charter gave the Economic and Social Council the

power to establish Commissions, including the Commission on Human Rights which had the express duties to observe and support the protection of human rights.

Colonel HODGSON (Australia) proposed that the Working Group should emphasise the suggestion of Mr. DEHOUSSE that the Economic and Social Council be asked to extend the powers of the Commission both to receive, and to submit recommendations concerning, petitions.

He considered that the Working Group had agreed firstly, that individuals, associations, groups, and States already possessed the right of petition; secondly, that as regards implementation, the proposed powers of the Commission should be to receive petitions from ratifying States and from individuals, associations, and groups, who were subjects of ratifying States.

The CHAIRMAN said that it was possible to suggest that Member States should ratify the Convention within a fixed period.

Mr. DEHOUSSE (Belgium) summed up the decisions already taken by the Working Group. He said that all individuals, associations, groups, and States had the right to present petitions. He said that only the petitions of subjects of ratifying States could be considered, and that petitions from subjects of non-ratifying States were governed by the rules of the Charter. He had, therefore proposed that the General Assembly be asked, as in the case of the World Health Organization, to appeal to all Member States to ratify the Convention. He proposed that petitions should be heard, either by a special committee of five or seven independent experts, or by an International Court.

Colonel HODGSON (Australia) considered that the Working Group had recommended that the Commission on Human Rights should be given jurisdiction and full powers concerning such violations of the Convention as caused disputes between parties to the Convention only

He added that such powers would not be judicial, but only of conciliation, mediation and recommendation.

He considered that the real problem lay in the possibility of legal redress if conciliation, mediation and recommendation failed to settle such disputes. He proposed that an International Court be established which could pass decisions enforceable, in the last instance, by the Security Council.

Mr. DEHOUSSE (Belgium) pointed out that the Charter contained no provisions relating specifically to petitions. He considered that it was the duty of the Working Group to formulate the right of petition and the measures concerning the consideration of petitions, and not only concerning communication. He agreed with Colonel HODGSON's proposal that redress should finally be provided by an International Court.

The CHAIRMAN referred to the proposals contained in document E/CN.4/Sub.2/27, paragraph 3.

Mr. BENTWICH (Consultative Council of Jewish Organizations) supported the proposal to set up an International Court.

He considered that there would be a flood of petitions, which, he proposed, should be sifted by the appropriate consultative bodies. He further proposed that these bodies should have the right to appear and support these petitions if necessary.

He felt that petitions should be dealt with first by a body of experts and not by the Commission, and he quoted the analogy of the Permanent Mandates Commission of the League of Nations.

He suggested that the following clause be included in the convention: "The States parties hereto agree that they shall be bound to implement in good faith the recommendations of the organ or organs of the United Nations which have dealt with the alleged breach of this Bill of Rights.

They further agree that they shall take no action of any kind against any individual or a group of individuals on account of the petition presented by them to the Economic and Social Council."

Dr. RIEGNER (World Jewish Congress) supported Colonel HODGSON and Mr. DEHOUSSE's recommendations that an International Court should be established.

He pointed out that the recent Peace Treaties had, to some extent covered the question of violation of human rights, but contained no measures of implementation. He proposed that any measures to implement the Convention should equally be applied to the Peace Treaties.

He also proposed that certain international organizations, especially consultative bodies, should have the power to petition in their own right, as they might be composed of subjects both of ratifying and of non-ratifying States. He supported the proposal that petitions might be sifted by consultative bodies, whose decisions should be exempted from further sifting. He suggested finally that there should be publication of decisions concerning petitions heard in private session.

The CHAIRMAN, referring to the absence of Mr. KLEKOVKIN (Ukrainian S.S.R.), read to the Working Group the following letter addressed by him to her: "I have got a strong opinion during these discussions that it is impossible for me to take my part in it, because I am standing on my old position that it is necessary to discuss the question of an implementation on a more late stage of the Human Rights Commission's work, when the work of another Working Party will be finished.

Standing on this position, I decide to be out from this discussion and ask you to put down my opinion and decision in a report of the 3rd Working Party to the Human Rights Commission.

I hope, dear Chairman, you will not take my opposition as opposition against your ruling."

Mr. DEHOUSSE (Belgium) said that he would include this letter in the report.

Colonel HODGSON (Australia), referring to the proposal of Dr. RIEGNER, pointed out that the consultative bodies would be acting in a judicial manner, if they were allowed to screen and sponsor petitions.

Referring to the analogous body of the Permanent Mandates Commission, he suggested that there might be a Body of Commissioners with limited judicial powers, as he did not consider that the bi-annual meetings of the Commission would be sufficient for this and all their other duties.

He pointed out that no attempt had been made at the Paris Peace Conference to make the Peace Treaties part of the various State constitutional laws, and that, therefore, individuals affected had no right of petition under the Peace Treaties.

Mr. DEHOUSSE (Belgium) considered that there were six questions before the Working Group.

First, whether it was necessary to transmit all petitions direct to an International Court or to establish a Committee of first instance to examine petitions.

Secondly, if such a Committee were created, whether it would be composed of members of Member Governments, non-governmental organizations, or independent experts.

Thirdly, if such a Committee was created, whether its sessions would be private.

Fourthly, what would be the powers of such a Committee.

Fifthly, if such a Committee had powers of conciliation, and if such conciliation failed and a petition was sent to the International Court, whether it would be necessary to create an Attorney-General of the United Nations.

Sixthly, whether international organizations should have an independent power of petition in their own right.

Mr. POUREVALY (Iran) suggested that petitions should be addressed to an International Court, which itself should decide whether such petitions were acceptable.

Mr. DEHOUSSE (Belgium) said that the screening of petitions was not, in his opinion, the function of a court but of a special Committee.

Colonel HODGSON (Australia) proposed that the Report of the Working Group should refer to the alternative methods suggested; either, that the Commission should establish a Standing Committee or that a Group of High Commissioners should be created by the Economic and Social Council, by the General Assembly, or by the Commission on Human Rights with express powers granted for this purpose.

The CHAIRMAN considered that it was a question of principle whether a Standing Committee should be established to screen petitions or whether petitions should be sent direct to an International Court. She said that this only affected the petitions of individuals, associations, or groups, as State petitions would be sent direct to the International Court.

Colonel HODGSON (Australia) said that he was not clear what Committee was to have these screening powers.

Mr. DEHOUSSE (Belgium) said that he foresaw one permanent Committee with full advisory and administrative machinery necessary to consider and screen petitions. He added that this Committee would be able to establish Sub-Committees.

He repeated that if their measures of conciliation failed, petitions would be sent to the International Court.

The meeting closed at 1.20 p.m.