

COMMISSION ON HUMAN RIGHTSSecond SessionWORKING GROUP ON IMPLEMENTATION

Summary Record of Fifth Meeting held in the Palais  
des Nations, on Monday, 8 December, 1947 at 3 p.m.

Present:

Chairman: Mrs. Hansa MEHTA (India)

Rapporteur: Mr. DEHOUSSE (Belgium)

Members: Colonel W.R. HODGSON (Australia)

Mr. POUREVALY (Iran)

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

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

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

Observers: Mr. A. CAMPBELL (United Kingdom)

Miss WHITEMAN (United States of America)

Secretariat: Mr. Edward LAWSON.

The CHAIRMAN proposed that the Working Group should now discuss measures of supervision, as she considered that the discussion of implementation by States in their domestic field of legislation was finished. She referred to the questions suggested by Mr. DEHOUSSE (Belgium) for discussion by the Working Group, and she submitted her own proposals on the subject.

Mr. POUREVALY (Iran) referring to the questions proposed by Mr. DEHOUSSE (Belgium), suggested the creation of a system similar to that of the Court of Cassation. Such a system, he said, might include an International Court of Justice, an International Court

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of Human Rights, and a Special Chamber to deal directly with petitions.

Colonel HODGSON (Australia) agreed that the Working Group had finished its discussion on implementation, as far as it concerned the domestic field of legislation by the Member States.

He recalled that the Working Group had agreed that the Economic and Social Council should be asked to confer certain powers upon the Commission on Human Rights, which could in turn delegate such powers to a Committee which would have under its direction a screening sub-Committee. He considered, therefore, that it should be made quite clear that the Chairman's proposal was an alternative by which the Economic and Social Council would be asked to confer powers not upon the Commission on Human Rights but upon another body, the details of which were outlined in the Chairman's paper.

Mr. DEHOUSSE (Belgium) proposed that the Working Group should first discuss paragraph (b) of Annex H on the basis of the Chairman's proposal, and should then discuss his own six questions.

The CHAIRMAN said that, in her opinion, the proposed Committee or Commission must be an independent and non-Governmental body, because it would have to consider petitions directed against States.

Mr. DEHOUSSE (Belgium) suggested that petitions might be a first stage, and recommendations to a Court the last stage, of the procedure.

He said that he preferred that a Committee, being smaller than a Commission, should be created. He felt that it should be a standing Committee, not always in session, but able to meet whenever necessary.

Colonel HODGSON (Australia) repeated that, in his opinion, it must be made clear in the Report of the Working Group that the proposed powers should be delegated either, to the Commission on Human Rights, and thence possibly to a sub-Committee, or alternatively, to a standing Committee, as proposed by the Chairman.

Mr. DEHOUSSE (Belgium) said that the systems proposed were not alternative but concurrent. The Standing Committee, composed of independent experts, would attempt conciliation of the issues raised in petitions. The Commission on Human Rights might later make recommendations, as a political organ, composed of representatives of Governments. He reminded the members that the League of Nations had a similar system of two bodies; the Council, which made recommendations, and the Permanent Mandates Commission, which was the administrative authority.

The CHAIRMAN summarized the decisions as follows: it had been decided to suggest that the Commission on Human Rights be given the power to discuss petitions and make recommendations. Now it was proposed that a standing committee should be established by the Economic and Social Council. Its function would be to supervise the observance of human rights. If mediation failed, it would transmit the petition to the General Assembly for action. If, however, a dispute arose over whether or not there was a violation, the dispute would be referred to the International Court of Justice.

Colonel HODGSON (Australia) considered that these proposed functions of the Standing Committee would leave a very small competence for the Commission on Human Rights.

Mr. BENTWICH (Consultative Council of Jewish Organizations) suggested that, if the Standing Committee failed to resolve disputes, recommendations concerning the petitions would be transmitted to the Commission on Human Rights.

Mr. POUREVALY (Iran) asked if the Standing Committee would have the power to deal direct with States, and, if so, whether the States would be likely to agree to this arrangement.

Mr. DEHOUSSE (Belgium) said that, in his opinion, the Standing Committee would have such power. In the case of the Mandates Commission of the League of Nations, the States had agreed to a similar plan.

The CHAIRMAN felt that it was agreed that a Standing Committee should be recommended, composed of not less than five expert Members (men and women) and appointed by the Economic and Social Council.

Dr. RIEGNER (World Jewish Congress) suggested that any agreed formula of implementation should cover all Human Rights provisions in international Agreements, including the proposed Convention on Human Rights and the peace treaties.

He also proposed that the International Court be asked to rule on the validity of the 1919-1920 Treaties concerning Minorities.

Mr. DEHOUSSE (Belgium) did not agree that the formula should cover Human Rights provisions in the peace treaties, because he considered that their definition was not sufficiently exact.

He added that Dr. RIEGNER'S proposal raised many complications concerning non-member states, and that the United Nations organization had not been a party to those treaties.

Colonel HODGSON (Australia) said that, in his opinion, the proposed Standing Committee would only deal with ratifying States and would have a very limited function. He supported the retention of the idea of an International Court, because he considered that most violations of Human Rights would be committed by non-ratifying States.

He said that the Standing Committee would be appointed, according to the Chairman's proposal, by the Economic and Social Council, which might be composed of Members of non-ratifying States. For this reason, he proposed adding the words: "from the recommendations of those States who have ratified the Convention".

Mr. DEHOUSSE (Belgium) suggested the following amendment of this proposal: "The Members of the Committee will be elected by the Economic and Social Council from lists submitted by those States having ratified the Convention or Conventions of Human Rights." This was accepted.

Colonel HODGSON (Australia) referring to paragraph 2 (c), proposed that the word "remove" be replaced by the word "remedy".

Mr. BENTWICH (Consultative Council of Jewish Organizations) proposed the addition at the end of paragraph 2 (c) of a clause which would permit the appearance of non-Governmental bodies.

Mr. DEHOUSSE (Belgium) pointed out that the rules of the Economic and Social Council already allowed for the consultation, therefore appearance, of non-Governmental bodies.

He suggested that a recommendation be included in the Report of the Working Group concerning the position of ex-enemy States. He suggested adding the following words "The Working Group studied the question of whether the implementation should apply not only to the Convention or Conventions on Human Rights but also to Peace Treaties already in force, or to be concluded, insofar as these contain provisions on Human Rights."

Colonel HODGSON (Australia) proposed the addition at the end of paragraph 2 (b) of the words "of ratifying States".

He said that, in his opinion, paragraph 3 of the Chairman's proposal should be separated from paragraphs 1 and 2. He suggested a reference at the end of the proposal to the effect that "a Division of the International Court of Justice or an International Court of Human Rights might be established in accordance with Part 3 of this Report."

Mr. DEHOUSSE (Belgium) proposed that it would be simpler to defer discussion of paragraph 3 until the Working Group had discussed the detailed Australian proposals, which appeared further

on in Annex H.

Referring to his six questions, he felt that the Working Group's decision had answered questions 1, 2, 4 and 5. Referring to question 3, (open or closed meetings) he pointed out that the similar Committee of the League of Nations had sat in closed session. He further considered that it would be unreasonable to ask Member States to accept public debates concerning petitions from their own subjects which might prove to be false.

He said that he did not wish to discourage States from ratifying the Convention, and he, therefore, proposed that sessions should be private.

He added that this issue was one of principle and not of detail. He considered that a guarantee of private sessions should be given to States before they considered whether or not to ratify the Convention.

He proposed that the following text be included in the Report of the Working Group, with reference to his question 3: "The Standing Committee will examine the petitions and conduct the negotiations in private session; it being understood that the decisions arrived at will be mentioned in the Report submitted to the Commission on Human Rights, which Report will be made public by the Commission on Human Rights if it deems it advisable".

Colonel HODGSON (Australia) said that, in his opinion, it would be curious if public Reports originating from private session were again considered in private session by the Commission on Human Rights.

Mr. DEHOUSSE (Belgium) agreed that debates by the Commission on Human Rights concerning public Reports should also be held in public.

He then referred to question 6. He said that non-Governmental organizations, composed of subjects of ratifying States, would

have an independent right of petition; the problem concerned non-Governmental organizations composed of subjects both of ratifying and of non-ratifying States.

He suggested, on the one hand, that it might be illogical for members of non-ratifying States to possess such a right. On the other hand, he suggested that, by extending the right to petition, the application of the Convention might be similarly extended.

Colonel HODGSON (Australia) pointed out that such international organizations had usually their own affiliated State organization. He suggested that a petition submitted by an international organization on behalf of a particular group could be submitted by that group through the local affiliated organization.

Mr. CAMPBELL (United Kingdom) said that he agreed with Colonel HODGSON (Australia), but suggested that the proposal be presented as follows: "The petitions from non-Governmental organizations should be received except when the effect of receiving them would amount to a violation of the rule that only those petitions were receivable which came from the subjects of ratifying States".

Dr. RIEGNER (World Jewish Congress) pointed out that a national organization, through fear of the consequences, might refrain from submitting petitions itself, but that it would more readily submit such petitions through international organizations.

Mr. DEHOUSSE (Belgium) suggested the following final text on this point: "Petitions from non-Governmental organizations will be receivable provided that they originate from a country or countries the Governments of which have ratified the Convention or Conventions".

The Meeting rose at 6.30 p.m.