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COMMISSION ON HUMAN RIGHTS

DRAFT REPORT OF THE COMMISSION ON HUMAN RIGHTS TO THE SECOND
SECOND SESSION OF THE ECONOMIC AND SOCIAL COUNCIL

Rapporteur: Mr. E.C. Neogy (India)

In accordance with the resolution of the Economic and Social Council of 16 February 1946 (E/27 of 22 February 1946) on the establishment of a Commission on Human Rights and a Sub-Commission on the Status of Women, the nuclear Commission on Human Rights met at Hunter College, New York City, from 29 April to May 1946, to consider its terms of reference, the definitive composition of the Commission, and various documents referred to the Commission concerning human rights, and to report thereon to the Second Session of the Economic and Social Council.

The Commission consisted of the following nine members:

Mr. Paal Berg (Norway)
Mr. Dusan Brkish (Yugoslavia)*
Mr. Alexander Borisov (U.S.S.R.)*
Prof. Rene Cassin (France)
M. Fernand Dehousse (Belgium)
Mr. Victor Raul Naya de la Torre
Dr. C. L. Hsia*
Mr. E.C. Neogy
Mrs. Franklin D. Roosevelt (United States)

Mr. Paal Berg (Norway), M. Fernand Dehousse (Belgium) and Mr. Victor Raul Naya de la Torre (Peru) were unable to attend the first session of the Commission. The Commission held meetings and one drafting session. Mrs. Franklin D. Roosevelt (U.S.A.) was elected Chairman, M. Rene Cassin (France), Vice-Chairman, and Mr. E.C. Neogy (India), Rapporteur.

After the adoption of the Rules of Procedure for the first session of the Commissions of the Economic and Social Council (E/Commissions/1), Mrs. Roosevelt, Mr. Brkish, and M. Cassin were appointed ex-officio

* Dr. C.L. Hsia had been nominated in place for Dr. John C.E. Wu, and Mr. Dusan Brkish in place of Dr. Jerko Radmilovic. Mr. Alexander Borisov was nominated in place of Mr. Nikolai Kravkov, who served on the Commission until 13 May.

members of the Sub-Commission on the Status of Women, in accordance with Section B, Paragraph 5, of the Council Resolution on the establishment of the Commission on Human Rights (E/27).

Terms of Reference

The terms of reference contained in Paragraph 2 of the Council Resolution (E/27) were reviewed and accepted by the Commission. It was generally felt that Item (a), namely, and international bill of rights might be found to cover substantially Items (b), (c), and (d). Attention was drawn to the fact that Item (c) of the terms of reference recommended in the Report of the Preparatory Commission (Page 36, Paragraph 16) - "any matters within the field of human rights considered likely to impair the general welfare or friendly relations among nations" - was not included in the terms of reference drawn up by the Council. The Commission agreed to request the Council to consider the desirability of adding a clause substantially on the lines of the original Item (c), so as to be able to deal with any matter not covered by Items (a), (b), (c), and (d).

Programme of Work

The Commission discussed in detail Item 8 of the agenda (E/HR/3), concerning the scope of work of the Commission and the examination of documents submitted by Members of the United Nations (E/HR/1, E/HR/2, E/HR/3).

The members agreed that the fullest possible documentation and information concerning the whole field of human rights was of the utmost importance for the drafting of an international bill of rights, and the Secretariat was requested to collect all available material on the subject.

The Commission felt that while it was within its competence to draft a bill of human rights, it was not as yet in a position to do so, but it would proceed with the preparatory work. It was decided to recommend that the full Commission should draft an international bill of rights as soon as possible, and that this draft should be circulated

among the United Nations governments for their comment.

The importance of regional conferences of experts was emphasized, and in this connection, reference was made to the Inter-American Conference of War and Peace Problems at Mexico City (Act of Chapultepec) in March 1945. Some members pointed out that it might be difficult, at present, to arrange for similar conferences in other parts of the world, particularly in Europe and the Far East. The Commission decided to recommend that if such conferences should prove impracticable, the advice of individual experts from various regions should be sought.

As the drafting of a bill of rights might take considerable time, members unanimously stressed the importance of the acceptance of the principle of including provisions for basic human rights in international treaties, particularly peace treaties. It was also agreed that such provisions should be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

With regard to the promotion and observance of human rights, the Commission felt that the need for an "agency of implementation" should be emphasized. It was also pointed out that, pending the eventual establishment of such an agency, the Commission on Human Rights might assist the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, and that it might aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights may constitute a threat to peace.

The Commission recognized that when the Economic and Social Council comes to consider the question of how to implement an international bill of human rights or how to afford protection to national minorities, it may find that political actions are necessary. The Commission, therefore, requests the Economic and Social Council to take this problem into consideration in determining the status and powers of the Commission on Human Rights and its Sub-Commissions.

The Commission considered that the number of sub-commissions, for the time being, should be limited, and that in addition to the existing Sub-Commission on the Status of Women, a Sub-Commission on Freedom of Information should be established.

It was agreed that the Secretariat should be instructed to collect all documentation concerning Items (c) and (d) of the terms of reference - protection of minorities and prevention of discrimination on grounds of race, sex, language, or religion - as a preliminary step to future consideration of the question of establishment of Sub-Commissions on this subject.

Finally, the Commission agreed to express the view that public discussion of human rights should be stimulated and encouraged throughout the world.

The recommendations to the Economic and Social Council with regard to the programme of work of the Commission on Human Rights were unanimously formulated as follows:

I. Documentation

The Commission recommends that:

1. The Economic and Social Council should instruct the Secretariat:
 - (a) to compile a yearbook, the first edition of which should contain all declarations and bills on human rights now in force in the various countries.
 - (b) to collect and publish information on the activities of the General Assembly, the Economic and Social Council, the Security Council, the Hague Court, the Commission on Human Rights, and all other organs of the United Nations dealing with human rights and fundamental freedoms; to include information on the Nuremberg and Tokyo trials which might be important in the field of human rights; to include also a survey of the developments of human rights, as well as plans and declarations by specialized agencies and non-governmental national and international organizations.
2. The Economic and Social Council might suggest to the Member Nations to establish information groups or local human rights committees within their countries who would transmit periodically information to the Commission on Human Rights on the observance of human rights in their countries, both in their legal systems and their jurisdictional and administrative practice.

II. Draft Declarations

The Commission recommends that:

1. The full Commission should draft an international bill of rights as soon as possible. The nuclear Commission should proceed with the preparations for such a bill. The draft of the international bill of rights, as completed by the full Commission, should be circulated among the United Nations governments for their suggestions.
2. The detailed examination of the documents submitted by the Delegations of Cuba and Panama (Documents E/HR/1 and E/HR/3) should be left to the full Commission or to a later session of the nuclear Commission.
3. The organization of regional conferences of experts should be taken under consideration. If such conferences should prove impracticable, the advice of individual experts from different regions should be sought.

III. Human Rights in International Treaties

The Commission recommends that:

without waiting for an international bill of rights to be written, the general principle should be accepted that provision for basic human rights be included in international treaties, particularly peace treaties, that similar provisions be accepted by all States, Members of the United Nations, and by States seeking admission to the United Nations.

IV. Agency of Implementation

The Commission recommends that:

1. It shall be considered that the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, could only be fulfilled if provisions were made for the implementation of the observance of human rights and of an international bill of rights.
2. Pending the eventual establishment of an agency of implementation, the Commission on Human Rights might be recognized as qualified to aid the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55, and 62 of the Charter, concerning the promotion and observance of human rights and fundamental freedom for all, and to aid the Security Council in the task entrusted to it by Article 62 of the Charter, by pointing to cases where violation of human rights committed in one country may, by its gravity, its frequency, or its systematic nature, constitute a threat to the peace.

V. Sub-Commissions

The Commission recommends that:

The Council should consider the appointment of a Sub-Commission on Freedom of Information and of the Press.

Sub-Commission on Freedom of Information and of the Press

In the course of the discussion on the terms of reference of the Sub-Commission on Freedom of Information and of the Press (E/HR/2, E/Commissions/4, E/HR/14), which the Commission desired to see established one of the members called attention to the fact that in the United States the news services were a highly developed, money-making industry, while in many other parts of the world, newspapers and news services did not enjoy a comparable position. Other members pointed out that it had often happened that newspapers and news agencies had poisoned the mind of the public by twisting the facts. Freedom should always be coupled with responsibility, and these members felt that in the future, measures should be considered against deliberate and systematic distortion of the truth. All members agreed that representation on this Sub-Commission should be as wide as possible, including the different regions in the world, as well as the different media of information.

The following recommendations were formulated:

1. Number of Members

The Commission (by a majority vote) recommends that the Sub-Commission on Freedom of Information and of the Press should be composed of twelve members.

2. Type of Membership

The Commission (by a majority vote) recommends that the members of the Sub-Commission on Freedom of Information and of the Press should be selected and appointed in the same way as was recommended for the full Commission on Human Rights.

The Commission emphasized that experts should be nominated to the Sub-Commission who have knowledge and experience in the different fields of information, and that the different stages of development of the means of information in different regions or countries be considered by the Economic and Social Council in the appointment of this Sub-Commission.

3. Terms of Reference

The Commission recommends that the function of the Sub-Commission, in the first instance, be to examine what rights, obligations, and practices should be included in the concept of freedom of information, and to report to the Commission on Human Rights on any issue that may arise from such examination.

4. Documents

The Commission decided to refer to the Sub-Commission on Freedom of Information and of the Press all documents on any subject pertaining to freedom of information and of the press.

Definitive Composition of the Commission

In accordance with Paragraph 6 of the Council Resolution (E/27), the Commission discussed in detail the definitive composition of the Commission.

With regard to the type of membership, it was generally felt that as the Economic and Social Council was elected by the governments represented in the General Assembly, and as the Members of the Economic and Social Council, in their turn, represented governments, the Commission on Human Rights, appointed by the Council, should not again consist of representatives of governments. It was further emphasized that the Commission should consist of highly qualified persons who had shown their ability to think of human beings as such, without regard to race, creed, or colour. The Commission unanimously agreed to recommend that all members of the Commission on Human Rights should serve as non-governmental representatives, appointed by the Council out of a list of nominees submitted by the Member States of the United Nations.

The Commission reached unanimous agreement on the recommendation concerning the number of members, their re-eligibility, and their term of office.

The question of fitting the nuclear Commission into the scheme of definitive composition of the Commission was considered. One member expressed the view that the Economic and Social Council might, if necessary, call for the resignation of the present members, so as to

enable the Council to appoint all the members of the Commission at the same time on a uniform basis.

The members felt that the Commission was not in a position to make recommendations concerning the number and the duration of sessions of the full Commission. With regard to Corresponding Members, the Commission felt that it could not, at present, recommend the practice followed by the League of Nations of naming members of the Commission "Corresponding members" upon their resignation, but the members of the Commission unanimously agreed to recommend that the Commission on Human Rights should be authorized by the Economic and Social Council to call in ad hoc working groups of non-governmental experts or individual experts.

The recommendations to the Economic and Social Council with regard to the definitive composition of the Commission on Human Rights were finally formulated as follows:

1. Type of Membership and Method of Selection

- (a) All members of the Commission on Human Rights should serve as non-governmental representatives;
- (b) All member States of the United Nations should have the right to nominate not more than two individuals for the Commission;
- (c) Any Member State desiring to do so, could nominate a national of another Member Nation;
- (d) The full list of nominees should be submitted to the Council and from this list alone the Council should appoint the members of the full Commission.
- (e) The Economic and Social Council should at all times pay due regard to equitable geographical distribution and to personal qualifications of the nominees for service on the Commission.

2. Number of Members

The full Commission should consist of eighteen members.

3. Re-eligibility

The members of the full Commission should be eligible for re-appointment.

4. Term of Office

Members of the full Commission should be appointed for a term of three years by the Economic and Social Council. Of the first eighteen members of the Commission appointed by the Council, the term of office of six members should expire at the end of one year, of six other members at the end of two years, and of the last six member members at the end of three years.

5. Frequency of Meetings

The Commission felt that it was not in a position to make recommendations concerning the number and the duration of sessions of the full Commission. It was decided to inform the Economic and Social Council that the nuclear Commission would be ready to meet at the call of the Council and to take up any work which the Council may refer to it.

6. Corresponding Members

The Commission felt that it could not, at present, recommend the practice followed by the League of Nations of naming members of the Commission "Corresponding members" upon their resignation.

7. Working Groups and Experts

The Commission should be authorized by the Economic and Social Council to call in ad hoc working groups of non-governmental experts or individual experts without reference to the Council, but with the approval of the President of the Council and of the Secretary-General

8. Reciprocal Representation between Commissions

In accordance with the Report of the Preparatory Commission (Page 37, Paragraph 39), suitable arrangements for reciprocal representation should be made between the Commission on Human Rights and commissions working in allied fields.

9. Specialized Agencies

In conformity with the Report of the Preparatory Commission (Page 39, Paragraph, 40), the Commission should be authorized to invite representatives of the appropriate specialized agencies take part in its meetings, in accordance with the terms to be laid down in the agreements between the Economic and Social Council and such agencies.
