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SECOND (SOCIAL) COMMITTEE

SUMMARY RECORD OF THE 24th MEETING

Held at Headquarters, New York,
on Friday, 4 May 1979, at 10.30 a.m.

Chairman: Mr. O'DONOVAN (Ireland)

CONTENTS

The meeting was called to order at 11.10 a.m.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (continued) (E/1979/24, chap. I, draft resolution V; E/CN.5/558, annex II; E/1979/C.2/L.5; E/1979/C.2/CRP.4; E/1979/NGO/8)

1. Mrs. SEMICHI (Algeria) introduced the draft resolution in document E/1979/C.2/L.5 on behalf of the sponsors, which were now the delegations of Barbados, Jamaica, Mexico, Pakistan, the Philippines, Senegal, Turkey and her own country.

2. The discussions on the subject in the General Assembly and in the Council, the Committee and the working group established pursuant to Council resolution 1978/22 had given a clear picture of the problems of the countries directly concerned with migrant workers. However, while bilateral and multilateral debates naturally aroused interest in both the receiving countries and the so-called "exporting" countries, it was obviously the latter that were most persistently affected by and concerned about the situation of some of their nationals. Certainly, the African, Asian, Latin American and European countries could not ignore the problem.

3. The sponsors of the draft resolution had never questioned the principles enshrined in the Charter, including the principle of State sovereignty. That principle, however, like all the others in the Charter, could not but help to strengthen action to improve the situation of migrant workers in respect of human rights and dignity. Indeed, the first preambular paragraph of the draft resolution was based on a principle of the Charter which immediately placed the role of migrant workers in its proper context. Other paragraphs of the preamble referred to specific international instruments. The fifth and six preambular paragraphs were based on draft resolution V which the Commission for Social Development at its twenty-sixth session had recommended for adoption by the Council. The eighth and ninth preambular paragraphs were based on resolution 25 (XXXV) adopted by the Commission on Human Rights. The considerations reflected in the preambular part of the draft resolution all demonstrated the need for genuine action and close co-operation not only between the countries concerned but also between the organizations of the United Nations system. That was the basis of operative paragraph 2. The sponsors of the draft resolution, which were delegations from countries of origin of migrant workers, wished it to be clear that the "covention globale", referred to in the original French text of operative paragraph 2 was intended in the sense of a "comprehensive" convention to be produced as a result of joint action by a large number of organizations in close co-operation with Member States. Its purpose was to complement the specialized work of ILO in that field: it was not intended as a substitute for existing or future ILO Conventions. Such a convention, prepared by the General Assembly, must find a place among the other international instruments that had been adopted on the same subject.

(Mrs. Semichi, Algeria)

4. In connexion with General Assembly resolution 33/163, which was mentioned in the draft resolution, the sponsors regretted that the Commission on Human Rights had not been able to place before the Council at the current session the study requested in General Assembly resolution 32/120. They hoped that the co-operation called for in operative paragraph 2 of the draft resolution would enable the Commission to carry out the task that it had not so far been able to accomplish, doubtless through lack of time.

5. The sponsors of the draft resolution believed that joint efforts to find a comprehensive solution would help to strengthen understanding between States and to ensure greater well-being for migrant workers and for people in general.

6. With regard to the wording of the draft resolution, she drew attention to the following amendments: in the third line of the seventh preambular paragraph - at the suggestion of the representative of Morocco - the words "continue to be of" should be replaced by "are a matter of serious concern and" (constituent une grave préoccupation et revêtent); in the French text of the twelfth preambular paragraph - also at the suggestion of the representative of Morocco - the words "de la situation" should be inserted in the last line, after the word "l'amelioration"; in operative paragraph 2, in the English text, the words "co-operative effort" in the fourth line should be replaced by the word "co-operation" and the word "effort" in the ninth line should be replaced by "co-operation" in order to conform with the sense of the French text.

7. Mr. EL MOKRI (Morocco) informed the Committee that his delegation wished to join the sponsors of the draft resolution.

HUMAN RIGHTS QUESTIONS (continued) (E/1979/19 and 36 and Add.1 and 2 and Corr.1 (English only)); E/1978/14 and Add.1-8; E/1979/C.2/L.7/Rev.1, L.8, L.9)

8. The CHAIRMAN invited the members of the Committee to consider and vote on the four draft resolutions and 13 draft decisions recommended by the Commission on Human Rights in its report (E/1979/36) for adoption by the Council.

Draft resolution I

9. The CHAIRMAN drew attention to the statement of the financial implications of the draft resolution contained in annex III to the Commission's report (p. 173).

10. Mr. ERDOS (Hungary) said that he would have no difficulty in accepting the draft resolution, but he wished to point out that in operative paragraph 1 the normal procedure would be for the Secretary-General to submit his report to the Commission on Human Rights for submission, through the Council, to the General Assembly at its thirty-fifth session.

11. Draft resolution I was adopted without a vote.

Draft resolution II

12. The CHAIRMAN drew attention to the statement of the financial implications of the draft resolution in annex III to the Commission's report (p. 173).

13. Mr. NENEMAN (Poland) said that his delegation would abstain in the vote because, having tried without success to secure the adoption of a draft convention on the rights of the child during the International Year of the Child, he could see no reason for giving higher priority or greater importance to the draft convention envisaged in the draft resolution under consideration.

14. Draft resolution II was adopted by 30 votes to none, with 6 abstentions.

Draft resolution III

15. The CHAIRMAN drew attention to the statement of the programme budget implications of the draft resolution set forth in document E/1979/36/Add.1.

16. Draft resolution III was adopted without a vote.

Draft resolution IV

17. The CHAIRMAN drew attention to the statement of financial implications of the draft resolution set forth in annex III to the Commission's report (p. 174).

18. Mr. BYKOV (Union of Soviet Socialist Republics) said that he had no particular problems with the draft resolution, but the guidelines in the annex to the draft needed clarification. He accordingly proposed the following amendments: in part two the words "established pursuant to international instruments relating to human rights" should be added to the title; in Section A the words "reports from specialized agencies, and" in the second and third lines should be deleted; in Section B the words "and the specialized agencies concerned" in the third and fourth lines should be deleted. He also proposed that in the fourth preambular paragraph of the draft resolution the words "International Convention on the Suppression and Punishment of the Crime of Apartheid" should be inserted in the fifth line after the word "Discrimination" and that the same words should be inserted in the sixth line of operative paragraph 1, after the word "Discrimination".

19. Mr. EDIS (United Kingdom) expressed regret that so many amendments had been submitted at the time of voting, when there had been plenty of time for the delegation concerned to submit them in writing. Moreover, the delegation concerned had been involved in negotiating the text in the Commission on Human Rights and had in fact accepted it.

20. The CHAIRMAN said that he would deal first with the proposed amendments to the draft resolution.

21. The amendments proposed by the USSR delegation to the fourth preambular paragraph and to operative paragraph 1 of the draft resolution were adopted without a vote.

22. The CHAIRMAN invited the Committee to consider the proposed amendments to the annex to the draft resolution.

23. Mr. EDIS (United Kingdom) said that he was puzzled by the proposed amendments. Surely, some of the activities in question would not be merely supervisory. Perhaps the delegation concerned would explain what was meant by his amendment.

24. Mr. BYKOV (Union of Soviet Socialist Republics) said members would recall that in the Commission on Human Rights the draft resolution had been adopted in haste, leaving certain points which might possibly complicate the issue and therefore needed to be put right. If it was the Council's intention to give guidelines, they should be as precise as possible. The amendments he had proposed were intended to clarify matters; he did not think there could be any misunderstanding.

25. Mr. NORDENFELT (Sweden) asked whether the representative of the Union of Soviet Socialist Republics considered the Economic and Social Council and the Commission on Human Rights as supervisory bodies established pursuant to international instruments relating to human rights.

26. Mr. EDIS (United Kingdom) said that was precisely the question to which he had hoped for a reply from the Soviet delegation.

27. Ms. MATTESON (United States of America) pointed out that, under the provisions of the International Covenant on Economic, Social and Cultural Rights, the Economic and Social Council was also a supervisory body, and it was important that it should be included. Moreover, under article 18 of that Covenant, reports were specifically requested from specialized agencies. There was a trend towards involving them increasingly in the Council's work, for which they could provide valuable assistance. Indeed, such assistance was being requested under the draft resolution contained in document E/1979/C.2/L.5. It would be a mistake to delete the references to them in draft resolution IV.

28. Mr. FAURIS (France) said that the proposed amendment to the title of part two of the annex to draft resolution IV was restrictive and would eliminate any monitoring of human rights as provided for in the Charter of the United Nations, which was not per se an instrument relating to human rights. His delegation could not support that amendment.

29. Mr. EDIS (United Kingdom) concurred with the view of the representative of the United States on the importance of the role of the specialized agencies in the human rights field. That was absolutely clear, both implicitly and explicitly. He could not understand what was behind the desire to exclude reports from the specialized agencies, especially since the text made it clear that those reports would be included in the Yearbook "as appropriate".

30. Mr. HEINEMANN (Netherlands) said that his delegation too would appreciate further clarification from the Soviet delegation as to why it wished to exclude reports from the specialized agencies. It was a little surprising that such substantive amendments had been proposed when the draft resolution had already been before the Committee for over a month.

31. Ms. RICHTER (Argentina) expressed the view that the amendment proposed by the Soviet delegation to the title of part two of the annex would not exclude the role of the Economic and Social Council, which was designated in the International Covenants as a supervisory body. Where the specialized agencies were concerned, several of them had large budgets for human rights activities and produced many publications. It would be somewhat excessive to reproduce reports on all their activities in the Yearbook on Human Rights. Her delegation therefore had no difficulty in accepting the Soviet amendment.

32. Mr. FAURIS (France) said it was clear that section A of the Yearbook would include only extracts of the reports of supervisory bodies. It was important that reports of standard-setting activities in the field of human rights by specialized agencies should be included.

33. The CHAIRMAN put to the vote the Soviet amendment to the title of part two of the annex to draft resolution IV.

34. The Soviet amendment was rejected by 12 votes to 11, with 23 abstentions.

35. The CHAIRMAN put to the vote the Soviet amendments to sections A and B of the annex to draft resolution IV.

36. The Soviet amendments were rejected by 13 votes to 10, with 25 abstentions.

37. Draft resolution IV as a whole was adopted without a vote.

Draft decision 1

38. Draft decision 1 was adopted without a vote.

Draft decision 2

39. The CHAIRMAN drew attention to the statement of financial implications set forth in the Commission's report (p.150).

40. Ms. MATTESON (United States of America) said that her delegation had not so far received any instructions on draft decisions 2 and 5 and therefore requested postponement of consideration of those decisions until the 25th meeting.

41. The CHAIRMAN said that he would take up those draft decisions once the Committee had dealt with all the others.

Draft decision 3

42. The CHAIRMAN drew attention to the statement of financial implications set forth in the Commission's report (p. 150).

43. Draft decision 3 was adopted without a vote.

Draft decision 4

44. The CHAIRMAN drew attention to the statement of financial implications set forth in the Commission's report (pp. 155-166). He understood that a vote had been requested.

45. Draft decision 4 was adopted by 38 votes to 2, with 7 abstentions.

Draft decision 6

46. The CHAIRMAN drew attention to the statement of financial implications set forth in the Commission's report (pp. 168-171). He said that a vote had been requested on the draft decision.

47. Draft decision 6 was adopted by 46 votes to none, with 3 abstentions.

Draft decision 7

48. The CHAIRMAN pointed out that the financial implications set forth to the Commission's report (p.172) applied only to paragraph 1 of its resolution 15 (XXXV).

49. Mr. BYKOV (Union of Soviet Socialist Republics) said that it had already been made clear in the course of discussions at the Commission's thirty-fifth session that draft decision 7 contravened resolution 1503 (XLVIII) of the Economic and Social Council, which had established specific confidential procedures for considering communications on human rights. That procedure could not be violated.

50. The CHAIRMAN put draft decision 7 to the vote.

51. Draft decision 7 was adopted by 29 votes to 5, with 13 abstentions.

Draft decision 8

52. The CHAIRMAN drew attention to the statement of financial implications set forth in the Commission's report (p. 173).

53. Mr. OZADOVSKY (Ukrainian Soviet Socialist Republic) said the draft decision was superfluous. There was no need to incur further expenditure in publishing a study which had already been widely disseminated.

54. Mr. EDIS (United Kingdom) said he would like confirmation from the Director of the Division of Human Rights that the report had been widely disseminated. His delegation believed that the question of international legal protection of the human rights of individuals who were not citizens of the country in which they lived was an important subject, particularly in view of the increasing number of people who were leaving their own countries, such as migrant workers. The study in question was a good one and should be widely read.

55. Mr. van BOVEN (Director, Division of Human Rights) said that the study prepared by Baroness Elles was available in the usual duplicated form. However, it was normal practice that studies prepared by rapporteurs should be printed for wide dissemination once they had been considered by the bodies concerned. Members of the Committee would see that a similar procedure was being adopted in regard to reports mentioned in draft decision 11.

56. Mr. BYKOV (Union of Soviet Socialist Republics) said that a decision on whether to publish studies depended on their specific content and the importance of the issues with which they dealt. Where migrant workers were concerned, there were other studies which were of greater value than the one referred to in draft decision 8. Anyone who was interested in the study prepared by Baroness Elles should be able to acquire a copy, without there being any need for additional expenditure for wider dissemination. In that respect, his delegation concurred with the view expressed by the representative of the Ukrainian Soviet Socialist Republic.

57. The CHAIRMAN put draft decision 8 to the vote.

58. Draft decision 8 was adopted by 42 votes to 1, with 5 abstentions.

Draft decision 9

59. Mr. NENEMAN (Poland) said that many delegations had expressed support for the early completion of a convention on the rights of the child. Those views would be reflected in the Committee's report and he therefore proposed that a comma should be inserted at the end of draft decision 9 and an additional phrase added, to read, "as well as appropriate paragraphs of its own report".

60. The CHAIRMAN said that might create some difficulties, and he suggested that the phrase "as well as the relevant portions of the summary records" could be added instead.

61. Mr. NENEMAN (Poland) said that was acceptable to his delegation.

62. Mr. EDIS (United Kingdom) expressed support for that amendment.

63. Draft decision 9, as amended, was adopted without a vote.

Draft decision 10

64. Draft decision 10 was adopted without a vote.

Draft decision 11

65. The CHAIRMAN drew attention to the statement of financial implications set forth in the Commission's report (p. 175).

66. Draft decision 11 was adopted without a vote.

Draft decision 12

67. The CHAIRMAN said that a statement of the programme budget implications of draft decision 12 was contained in document E/1979/36/Add.2 and Corr.1 (English only).

68. Draft decision 12 was adopted without a vote.

69. The CHAIRMAN said that he would defer consideration of draft decisions 2, 5 and 13.

Draft decision E/1979/C.2/L.7/Rev.1

70. Mr. EDIS (United Kingdom), introducing on behalf of the sponsors a revised draft decision on the subject of disappeared persons, said that General Assembly resolution 33/173 on the same subject had been adopted unanimously and without controversy. Citing the second, fourth and fifth preambular paragraphs and operative paragraph 2 of that resolution, he said that it had requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations. The humanitarian purpose of the resolution had been stressed during its introduction by the delegation of Colombia; furthermore, the resolution conveyed the importance and urgency of the problem. It had been transmitted, in accordance with paragraph 2, to the Commission on Human Rights; however, that body had not been able to complete action on it for lack of time.

71. The revised draft decision, which was primarily procedural, was aimed at sustaining the momentum generated by General Assembly resolution 33/173 by referring the subject to the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its consideration. It envisaged that the Sub-Commission would do preparatory work so that when the Commission on Human Rights next met it would have before it specific recommenations on which to take action.

72. Miss RESTREPO DE REYES (Colombia) said that her delegation wished to sponsor the revised draft decision.

73. Mr. ROS (Argentina) said that although his delegation was in agreement with the fundamental purpose of the revised draft decision to the extent that it reiterated the importance of General Assembly resolution 33/173, he would like to propose that the last part of the text, beginning with the words "requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities ...", should be deleted and replaced by two operative paragraphs reading:

"1. Reiterates its request to the Commission on Human Rights to give priority consideration to the question of disappeared persons with a view to making appropriate recommendations.

"2. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider communications referring to disappeared persons in conformity with resolution 1503 (XLVIII)".

74. If sponsors of the revised draft decision could not accept those amendments, his delegation would request that they be put to a separate vote.

75. The wording of the proposed operative paragraph 1 was based directly on General Assembly resolution 33/173, which had reflected the consensus that it was the Commission, composed of governmental delegations, that should be requested to analyse the problem. The revised draft decision, however, proposed that progress should be made on the issue on the basis of consideration by the Sub-Commission, which consisted of a group of experts, who would be unable to carry out their work properly unless they were given general guidelines and recommendations. To retain the wording of the revised draft decision would mean creating a precedent for referring an item to a group of experts whenever a group of States was displeased with the progress of work in the Commission on Human Rights. A decision having just been taken at the current session of the Council to increase the membership of the Commission and to strengthen it, an item would be removed from its consideration, as if it were incapable of assuming its responsibilities.

76. Everyone was aware that the problem was not lack of time, as adduced in the revised draft decision, but the existence of conflicting criteria, as reflected in the draft resolutions which had been before the Commission, and consideration of which had been deferred until the next session. Since the item would be discussed at the next session, all the Council needed to do was to reiterate the urgency of taking action. Consideration by the Sub-Commission as proposed in the revised draft decision would be untimely; it could not precede the expression of opinion by the States which were members of the Commission. General Assembly resolution 33/173 was addressed to Governments and they were the ones which would have to co-operate to determine how to deal with the problem and would have to make proposals on the basis of a thorough discussion, free from recriminations, which could only lead to sterile political confrontations and to disregard of the humanitarian aspect that should be the basic motivation of United Nations action in that field. The opinion of an expert or group of experts would be of no help in laying the foundations for future action on a problem which his delegation took very seriously, and on which there was a need to find appropriate forms of national action and international co-operation to arrive at a common solution.

(Mr. Ros, Argentina)

77. He reminded the Committee that there were specific provisions governing the "admissibility" of human rights communications, notably to avoid abuses of the right of petition and to uphold the right of reply of States in cases, for instance, where people sending communications had no first-hand or trustworthy knowledge of the facts, or where organizations were not acting in good faith or were politically motivated. That was particularly relevant in the case of persons missing or presumed missing. His country's experience in that regard had revealed the existence of well-defined political interests lurking behind ostensible concern to locate persons presumed missing.

78. As the French delegation had rightly stated, it was necessary to win the co-operation of the States concerned and to verify with them the accuracy of allegations. The confidential procedure laid down in resolution 1503 (XLVIII) of the Economic and Social Council was a valid means of ensuring that the subject did not serve as a pretext for a confrontation between States, which might see public discussion as a political weapon of aggression and propaganda. All peoples were proud of their independence, and public proceedings would be acceptable only if they were proved to stem from a genuine desire for co-operation in the promotion of human rights. Countries rejected attacks on them where there was evidence of political publicity-seeking or group pressures, and that prejudiced the cause of human rights.

79. If his delegation's proposed amendment was adopted, he hoped that the Commission on Human Rights at its next session would be able to hold an enlightening debate on the problem, in full knowledge of the experience of various nations and of forms of co-operation already established in the regional systems, thereby enabling the United Nations to fulfil its humanitarian task and to formulate recommendations to give effect to the goals to which all had aspired when adopting General Assembly resolution 33/173.

80. Mrs. DE LA MAZA (Dominican Republic) said that her delegation supported the amendments to draft decision E/1979/C.2/L.7/Rev.1 proposed by the representative of Argentina. Her delegation agreed with the Argentine delegation that because the Commission on Human Rights was dealing with the question, referring the matter to the Sub-Commission would establish a bad precedent. Furthermore, any body that considered the matter should base its deliberations on the confidential procedures provided for under Council resolution 1503 (XLVIII).

81. Mr. EDIS (United Kingdom) expressed gratitude to the representative of Argentina for his frank comments. The views he had expressed touched upon broader implications than the sponsors had originally envisaged. Speaking for his delegation alone, he said that the first paragraph proposed by the representative of Argentina was acceptable. The second paragraph, however, went beyond the immediate purpose of the draft decision, which had merely been to request the Sub-Commission to make recommendations in order to assist the Commission in its work. No special communications on disappeared persons had been requested of individuals or non-governmental organizations, and in any case there were already provisions under the procedure provided for in resolution 1503 (XLVIII) protecting individuals and non-governmental organizations.

(Mr. Edis, United Kingdom)

82. Although resolutions on the matter had been proposed in the Commission, no decisions had been taken and there had been no substantive public discussion. It was with that in mind that the proposal to refer the question to the Sub-Commission had been made. The Sub-Commission was a reputable body whose members were appointed by Governments, including, he believed, the Government of Argentina. His delegation felt that the expertise and good faith of the members of the Sub-Commission should be trusted.

83. The sponsors of the draft decision hoped that it would be adopted by consensus. Because the representative of Argentina had called for a vote if his amendments were not adopted, he suggested that consultations should be held on the question before a decision was taken. He further suggested that the second paragraph proposed by the representative of Argentina could be replaced by the original wording, beginning with the word "requests", of the last four lines of the revised draft decision, with the addition of the words "in accordance with its established procedures".

84. The CHAIRMAN said that in view of the remarks made by representatives, consideration of draft decision E/1979/C.2/L.7/Rev.1 would be postponed.

Draft resolution E/1979/C.2/L.8

85. Mr. NYAMEKYE (Ghana), introducing the draft resolution on behalf of the sponsors, said that the sponsors were doubtful as indicated in the second preambular paragraph, that the recommendations in the report of the Wiehahn Commission would actually bring about any fundamental changes. They believed that the recommendations did nothing to meet the demands of the African workers in particular or of the black people of South Africa in general. At best, they were intended to create industrial harmony for the benefit of employers in their continued exploitation of the black majority. The Wiehahn Commission was reported to have advocated the abolition of laws requiring separate rest rooms, locker rooms and cafeterias for each race in factories, offices and stores. Referring to an article in the Guardian which had appeared on 3 May 1979 in the Review of the British Press, and expressing his gratitude to the representative of the United Kingdom for bringing that article to his attention, he said that the Wiehahn report was permeated with the same prejudices as the policy of apartheid which it purported to ameliorate. It dealt with the political implications of apartheid and ignored the economic ones that perpetuated black subservience.

86. The sponsors believed that the immediate and complete abolition of all restrictions on the trade union rights of African workers in southern Africa, including migrant workers, and the immediate and unconditional recognition of all existing African trade unions was a legitimate demand. The apartheid régime would have to take immediate steps in response to it and implement the provisions of the draft resolution if it was adopted by the Council.

(Mr. Nyamekye, Ghana)

87. The sponsors believed that the draft resolution, which had commanded unanimous support, should be adopted on that basis.

88. Mr. EL MOKRI (Morocco) said that his delegation wished to join in sponsoring the draft resolution under discussion.

89. Draft resolution E/1979/C.2/L.8 was adopted without a vote.

The meeting rose at 1.15 p.m.