

COMMISSION ON HUMAN RIGHTSSECOND SESSION

## SUMMARY RECORD OF THE THIRTY-EIGHTH MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 15 December 1947, at 9 a.m.

## Present:

Chairman: Mrs. Franklin D. Roosevelt  
(United States of America)

Rapporteur: Dr. C. Malik (Lebanon)

Members: Colonel W.R. Hodgson (Australia)  
Prof. Dehousse (Belgium)  
Mr. A.S. Stepanenko (Byelorussian S.S.R.)  
Mr. Pourevaly (Iran)  
Dr. C.H. Wu (China)  
Mr. Omar Loutfi (Egypt)  
Prof. Rene Cassin (France)  
Mrs. Hansa Mehta (India)  
Mr. Amado (Panama)  
General R. Romulo (Philippines)  
Mr. Klekovkin (Ukrainian S.S.R.)  
Mr. Bogomolov (U.S.S.R.)  
Lord Dukeston (United Kingdom)  
Mr. Victorica (Uruguay)  
Dr. V. Ribnikar (Yugoslavia)

Commission on the  
Status of Women:

Mrs. Uralova

Secretariat:Prof. John P. Humphrey  
Mr. Edward LawsonSpecialized Agencies:Mr. Jean de Givry (I.L.O.)  
Mr. Jacques Havet (UNESCO)Observers: Non-  
Governmental Organizations -  
Category A:Miss Toni Sender (American Federation  
of Labor)  
Mr. Serrarens (International Federation  
of Christian Trade Unions)  
Mr. Vanistendael

## Category B:

Mr. Nolde (Commission of the Churches  
on International Affairs)  
Mr. de Felice (International  
Abolitionist Federation)  
Mr. Weill (Consultative Council of  
Jewish Organizations)  
Miss Eder (International Council of  
Women)  
Dr. Bienenfeld (World Jewish Congress)  
Mr. J.A.F. Ennals (World Federation of  
United Nations Associations)

Discussion of the Report of the Working Group on implementation  
(Document E/CN.4/53)

The CHAIRMAN invited the Rapporteur of the Working Group on Implementation to comment on the Group's Report.

Mr. DEHOUSSE (Belgium) stated that the subject with which the Working Group had been occupied was one of the most important questions before the Commission. He thanked the Secretariat for preparing Annex H of Document E/CN.4/21, which had enabled the Working Group to carry out its task.

The Report was based on this Memorandum. It contained, together with some pages of documentary interest, the replies to a series of questions based on the Secretariat's Memorandum. Certain texts had been prepared for incorporation in a final document.

He would like to make a few practical suggestions to the Commission. In dealing with any question that called for examination, the Commission might in each case allow one member to speak for and one against the issue. As regards texts submitted to the Commission for approval and in particular the question of petitions expounded on pages 18 and 19 of the Report, he suggested that these be discussed and voted on proposal by proposal.

He observed that the question of implementation had been discussed by the Commission for the third time. It had been discussed, firstly, at the First Session, secondly, by the Drafting Committee and thirdly by the Working Group set up by the Commission at its Second Session. It would again come up for discussion by the Drafting Committee, then by the Commission at its Third Session and, finally, by the General Assembly. In these circumstances, it could hardly be said that the discussion of this problem had not been broad and comprehensive. Furthermore, since this Report was presented in a different form from the others, in that it contained

a greater number of principles than of texts, he suggested that the Commission should have a brief general discussion on the report, speeches being limited to ten minutes each.

The CHAIRMAN announced that she had received a note from the Chairman of the Working Group on Implementation, requesting that the Report and the comments be submitted en bloc to Governments for their observations.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) felt that if the document to be submitted to the various Governments was to reflect the views of the Commission, a wider discussion would be necessary. The Report contained conflicting opinions on several points, whilst other points were unacceptable. In view of this he felt that comments would not be sufficient. He proposed that the Commission should devote an entire meeting to the general discussion of the Report.

The CHAIRMAN pointed out that it had been proposed that each speaker should have ten minutes in which to make general observations on the Report as a whole. The special points would be debated after the general discussion and when that stage was reached one member could speak for and one against each text proposed.

General ROMULO (Philippines) supported the proposed procedure, but wished speeches to be limited to five minutes only. He moved that the Commission proceed immediately to a general discussion, in the course of which any representative who wished to do so might make a statement. The Commission should not, however, take any decision on the principles contained in the Report or on the solutions proposed. Lastly the Commission should decide whether the transmission of this Report to the various Governments was or was not expedient.

Mrs. MEHTA (India) moved that the Report be transmitted unaltered to Governments, who would then make such comments and observations as they deemed fit. The Working Group on Implementation had got together all necessary machinery and she believed that any alteration might throw it out of balance. She proposed that in the document to be submitted to Governments, comments should be annexed to the Report.

Mr. CASSIN (France) accepted this procedure but requested that the Rapporteur should draw up a list of questions to be discussed.

Mr. DEHOUSSE (Belgium) thought the various suggestions made could be combined. The Commission might begin its work, not with a general discussion, but with a series of general statements, after which it could embark on the discussion of a series of questions, a list of which he would draw up for circulation by the Secretariat. In the course of this discussion, suggestions and remarks might be made in regard to any particular points. He favoured the proposal made by the Delegation of India. His Report was of a general and descriptive nature; therefore it would be well to add an Annex embodying the reservations, endorsements and comments which representatives might deem fit to make.

Lord DUKESTON (United Kingdom) asked for a correction to be made to the third paragraph on page 9 of the Report. The text following the words "was pledged to consult the colonies" should be deleted down to and including the words "personal observation", and be replaced by "and that if no provision was made for separate accession to the Convention on behalf of the colonial territories, the accession of the United Kingdom might be delayed".

Whilst not underrating the work done by the Working Group, he felt that in such a vast field as this, the problems raised might

have been gone into more thoroughly. The Commission should avoid giving the impression that it had dealt with the problem of the implementation of the Convention too superficially or too hastily. He hoped the Commission would re-examine this problem more carefully at its next Session.

He saw no objection to attaching to the Report an Annex containing such comments and observations as the representatives might think fit to make, but at this juncture it would be a grave mistake to amend and vote on the principles and solutions which were the outcome of the Working Group's labours. For this reason he supported the motion of the representative of the Philippines.

The CHAIRMAN pointed out that if the Commission decided to transmit the Report it should give an opinion on its value. The Commission must accept its responsibilities.

Colonel HODGSON (Australia) supported the various proposals made, but wished to know whether the general plan for implementation prepared by the Working Group, which was a balanced plan for the implementation of the Convention, at both the national and the international level, would be approved by the Commission. He thought the votes taken on the Declaration and the Convention were unreal, in view of the large number of abstentions. It was true that the Commission was merely preparing drafts to be submitted to Governments for their observations, but it was none the less undeniable that those Governments would only be able to form a very vague idea of the Commission's intentions. Consequently it was to be hoped that the Commission would adopt a definite attitude in regard to the concrete questions raised in the Report on implementation, so that this Report would at least have some substance and give body to the Commission's work.

The CHAIRMAN called for a vote on the Belgian delegation's proposal to limit general statements to ten minutes each and to draw up a list of specific questions on which one member could speak for and one against.

Decision: This proposal was rejected by nine votes to five with one abstention.

The CHAIRMAN called for a vote on the proposal by the delegations of the Philippines and India, to transmit the Report to the various Governments with an Annex containing the opinions expressed by the representatives.

Dr. MALIK (Lebanon) stated that the examination of so important a problem as that of implementation would, in these circumstances, be a farce. He felt that the Commission should devote as much attention to this question as it had to the other questions discussed. If the Commission failed to take a definite stand with regard to implementation, the value of its other work would be substantially reduced. A discussion confined to a few general statements without the clash of argument and without any decision being reached would not answer the purpose for which the Commission had decided to set up three Working Groups.

Colonel HODGSON (Australia) requested that a separate vote be taken on each part of the proposal made by the delegation of India.

Mr. DEHOUSSE (Belgium) said he had no statement to make on behalf of his own delegation, since its views were clearly expressed in the Report, but, as Rapporteur, he reserved the right to reply to any criticisms or observations which might be made.

It would, however, be more logical to hold over the Indian delegation's proposal concerning the transmission of the Report to Governments, until the end of the debate. The Commission could hardly take a decision straightaway before it had heard the representatives' statements, which might cause it to take different decisions. He therefore moved that a vote first of all be taken on the Philippine delegation's proposals and that the Commission then proceed to a general discussion, at the end of which it would be able to take a decision on the proposals made by the delegation of India, on the understanding, however, that new suggestions might be made according to the direction taken by the debate.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) asked that a vote should first be taken on the Philippine proposal.

The CHAIRMAN first put to the vote the proposal made by the Philippine delegation that the Commission should at once proceed to the general discussion of the Report.

Decision: This proposal was adopted by sixteen votes.

The CHAIRMAN then called for a vote on the proposal that no decision should be taken on the principles or solutions put forward in the Report, but that this should be transmitted to the various Governments for their observations and comments, with an annex containing the comments of the members of the Commission.

Decision: This proposal was adopted by eight votes to six, with two abstentions.

The CHAIRMAN called for a vote on the proposal that statements should be limited to ten minutes each.

Decision: This proposal was adopted by eleven votes to one, with two abstentions

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) thought the Report of the Working Group on Implementation of the Convention was unacceptable because it was the result of a misunderstanding. In its recommendations the Working Group had shown itself to be actuated, not by a desire to adopt practical measures for the implementation of human rights and freedoms, but by the intention to subject States accepting the Declaration to the procedures of enquiry and conciliation, and to a special International Court, or even an international Attorney General.

This was yet another attempt to interfere in the domestic affairs of a State. Under the terms of these recommendations, the Working Group required States to accept a number of organs which would play the role of referee between nationals and their respective governments, elected in accordance with democratic principles. The establishment of an international Committee composed of five persons, as envisaged by the Working Group, to investigate cases of violation of human rights, was a fantastic and dangerous proposal. This Committee of Five would have to examine complaints laid before it by organizations and individuals in all parts of the world, which would be couched in all known languages, and would cover the whole range of questions mentioned in the Declaration, including labour, education, social security, the inviolability of the human person, etc.

The Working Group even contemplated authorising the Committee of Five to mediate between an individual and his national authorities, and, should the Committee's efforts be unsuccessful, referring the dispute to a special International Court. The Working Group even proposed to appoint an international Attorney General and ad hoc Committees of the United Nations which would sit permanently in all States, and would have the task of supervising the enforcement of human rights in each country concerned. This was an attempted gross infringement of Article 2, paragraph 7 of the United Nations' Charter, which repudiated the right to intervene in matters which were essentially within the domestic jurisdiction of any State. The Soviet delegation could not accept these recommendations of the Working Group on Implementation since they violated the sovereignty of the various States. Moreover, they in no way helped to guarantee the defence of human rights and could only bring about a violation of national sovereignty and independence. He moved that the Commission should take note of the Working Group's Report but should not transmit it to Governments until the latter had agreed upon the substance of human rights, and so prepared the way for the adoption of adequate measures for the implementation of those rights.

He also noted that the Report made no mention of the remarks of the Soviet delegation's observer, who had drawn the attention of the members of the Working Group to the fact that the measures proposed constituted an interference in the sovereignty and independence of individual States.

Mr. DEHOUSSE (Belgium) replying, in his capacity as

Rapporteur, to the last remark made by the representative of the Soviet Union, stated that the Observer from this delegation had only attended the last two meetings of the Working Group. He had not asked for the insertion of his remarks in the Report, according to the usual practice, and the Report had therefore made no mention of them.

Mr. RIBNIKAR (Yugoslavia) supported the statement of the Soviet representative which was most explicit. He regarded the Report of the Working Group on Implementation of the Convention as a new attempt to transform the United Nations into a kind of world government, placed above national sovereignty; with a system such as this the country that was strongest economically would have complete supremacy and would likewise exert a preponderant political influence. It would be only natural for weak States to oppose these attempts at international dictatorship and oppression, but on the contrary it had been seen that the Governments of economically weak European and South American countries did not always resist these attempts at domination; even medium Powers accepted interference in their affairs, regardless of the claims of national sovereignty. Some statesmen in fact upheld the doctrine that the idea of national sovereignty was obsolete and that countries could no longer lead an independent existence. The Marshall plan was the outcome of such theories.

The Working Group on Implementation of the Convention similarly proposed to create a body able to override the sovereignty of States. Governments that accepted such a proposal would thereby give proof of the inherent weakness of their economic and social system, as manifested by social disturbances and even moral decadence. Peoples that had taken an active part in the war and, after the liberation, had organized their State on a solid basis of national sovereignty, had no need of

help from the great Powers; in those countries national solidarity had reinforced national sovereignty. Yugoslavia would never renounce the rights founded on the principle of national sovereignty which had been bought with more than half a million human lives.

The Report of the Working Group completely ignored this conception of sovereignty. The Yugoslav delegation did not believe it was necessary to establish an International Court and thus to surrender national sovereignty in order to implement human rights. On the contrary, it wished for a comprehensive Declaration of human rights and placed full confidence in the States parties to this instrument, which, by their signature alone would pledge themselves to enforce these rights. No Declaration, Convention, or International Court of Justice would be effective without the goodwill of States that were resolved to enforce the principles of human rights and the basic rights of freedom.

Mr. CASSIN (France) stated that it was vital not to disappoint the peoples' hopes. He recalled that one consequence of the war had been the repudiation of the most rudimentary rights, first of individuals, and then of nations.

The Charter proclaimed that the purposes of the United Nations were to promote and encourage respect for human rights and for fundamental freedoms for all, but this duty should be supplemented by the resolve of nations to secure respect for these rights. To fulfil their obligations Members of the United Nations should secure respect for human rights on the basis of direct collaboration between States, by bringing their laws and constitutions into conformity with the principles of human rights, by setting up machinery for the implementation of these rights and by submitting regular reports on implementation measures.

They should do this at the international level by submitting all cases of a general nature either to the General Assembly or to the Security Council, and finally, by taking action on complaints and petitions from groups or individuals with regard to rights that had been denied. A great many cases could not be settled by the higher organs of the United Nations and his delegation consequently favoured the proposal for screening petitions in collaboration with non-governmental organizations, by the creation of a non-jurisdictional conciliation organ within the United Nations and by final appeal to a Court of Justice. He did not believe that an International Court of Human Rights would be easy to establish, or that the International Court of Justice could be given this task following the amendment of its Statute. He agreed that in cases where an individual was involved in a dispute with a State, the former should be represented by the United Nations in the person of an Attorney-General.

The Belgian delegation urged that the whole report of the Working Group on the Implementation of the Convention be transmitted to Governments and to the Economic and Social Council for their observations, but stressed the need for Governments to submit their comments and suggestions in time to enable the Commission to make positive proposals to the higher organs of the United Nations. He drew the Commission's attention to the serious predicament in which it would find itself if it were unable to submit formal proposals at its next Session.

Lord DUKESTON (United Kingdom) approved the conclusions reached by the Working Group on the Declaration. The Declaration defined aims and expressed an ideal, and any implementation, in the sense given to the word in the Convention, would be out of place in relation to a Declaration. In the view of his delegation,

the Convention should lay down a procedure whereby decisions might be taken on petitions from States, groups, individuals and governmental or non-governmental organizations with regard to violations of the Convention. It believed, however, that petitions originating from States would require a different procedure from the rest; such petitions should be submitted to the General Assembly, as prescribed in Articles 5 and 7 of the draft Charter drawn up by the United Kingdom delegation. The other petitions might be screened by the Secretariat. The United Kingdom delegation wholeheartedly subscribed to the Working Group's proposal that petitions should be sent in the first instance to a Committee of Experts, rather than directly to an international Court. But it doubted whether a Committee of five persons, as suggested in the Report, would be an adequate body.

In reply to the remarks made by the representatives of the Union of Soviet Socialist Republics and Yugoslavia on the subject of national sovereignty, he stated that if the principle of national sovereignty, as understood by those delegations, was accepted, no form of implementation on an international scale would be possible. In such a case the entire work of the Commission would have been useless. However, he recalled that under Article 94 of the Charter, each Member of the United Nations had undertaken to comply with the decision of the International Court of Justice, and the same Article provided that if a State failed to perform the obligations incumbent upon it, the Security Council, if it deemed necessary, might decide upon measures to be taken to give effect to the judgment. The idea of an international Court was therefore implicit in the text of Article 94.

The Commission's task was to draw up instruments which would establish human rights and ensure respect for them by international

law, but having done this it must also provide for implementation measures on an international scale. He pointed out that the League of Nations had failed, not because its principles were insufficiently clear, but solely because it had been unable to ensure respect for those principles. He failed to understand how a State by virtue of its national sovereignty, could remain the sole judge of the fulfilment of obligations it had assumed on the international plane.

With regard to the Marshall Plan, he stated in reply to the representative of Yugoslavia that there was nothing in this plan to justify the allegations voiced in the course of the debate. He deplored such statements in relation to disinterested proposals made by a State that had done so much to strengthen international solidarity. He wondered whether those who spoke in this way were really in touch with reality.

The CHAIRMAN announced that the representative of the American Federation of Labor had asked permission to speak.

Colonel HODGSON (Australia) and Dr. MALIK (Rapporteur) supported this request.

Miss SENDER (American Federation of Labor) stated that the Working Group on Implementation of the Convention had performed an onerous task and brought a ray of hope to the working masses. She regarded the fruits of its labours as a further proof of the sincerity of United Nations principles. She recalled, however, that the League of Nations had failed, not because its principles were unsound, but because it had lacked the means of implementing those principles. The League's experience should teach the Commission a lesson. Human rights should be defended by positive measures which would avert conflicts. If in the important issue of implementation, national sovereignty were to become the fundamental

principle, as some delegations seemed to wish, it would then follow that the Security Council and even the International Court of Justice should be abolished, since all their work might be construed as interference in the domestic affairs of States.

However, the International Court of Justice and the Security Council had been accepted by all the Members of the United Nations. She recalled that during the meetings of the Sub-Commission on Minorities, some members of delegations, who now demanded respect for national sovereignty, had asked that negroes in the United States should be allowed to present petitions to the Commission. She was amazed that these same members had not logically pursued their argument and regarded this as interference in the domestic affairs of a State. She emphasised the fact that no matter how certain economic systems might differ, those differences should not preclude respect for human rights. If the Commission did not wish to disappoint the hopes of the peoples who were anxiously awaiting concrete measures guaranteeing the implementation of the principles contained in the Declaration and the Convention on Human Rights, then it should provide instruments which would allow of the implementation of these principles, even should this involve the establishment of an International Court.

She asked the Rapporteur whether he would explain why he had changed his opinion and now favoured the establishment of a new International Court in place of the International Court of Justice, or of a special Chamber of the latter.

Mr. KLEKOVKIN (Ukrainian S.S.R.) stated that there was no need for a Court of Human Rights to implement the principles of the Declaration in his country, since complete equality between citizens and national groups was guaranteed and respect for human rights assured by the new Stalin Constitution. Oppression of one

group by another did not exist in the Ukraine. Relations between citizens and the authorities were regulated by direct, general and universal elections. He could accept none of the measures recommended by the Working Group on Implementation since these would stifle the sovereignty and independence of States. Possibly, other States did not think in the same way, but the Ukraine which had suffered and fought for the rights and freedoms guaranteed by national sovereignty, would never accept those measures. The Commission's task was to define the principles of human rights and to strengthen co-operation between States for their implementation.

For the achievement of this purpose, it would be possible, contrary to what the United Kingdom representative had stated, eventually to envisage other formulas than those prepared by the Working Group. These would be practical and effective measures which would take account both of international co-operation in the field of human rights and of the national sovereignty of States.

The CHAIRMAN stated that the Convention was more than a mere recital of principles, since it envisaged implementation measures also. The United States delegation accepted the conclusions reached by the Working Party, in general, but wished its remarks to be included in the Report in the form of marginal notes.

Mr. DEHOUSSE (Belgium), as Rapporteur of the Working Group on Implementation, stated that he could not agree to these remarks being inserted in the Report, alongside each Article to which they related. Corrections to statements made by an observer in the course of the ad hoc Committee's discussions could, however, be inserted in the form of marginal notes. He pointed out that most of the remarks made by the Chairman had never been submitted to that Committee. This being the case, the comments in question could, he thought, only be inserted in the Report in the form of additional remarks.

The CHAIRMAN pointed out that all the remarks which had been made in the course of the discussion would be annexed to the Report and submitted to Governments.

The meeting rose at 1.05 p.m.