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SECOND (SOCIAL) COMMITTEE

SUMMARY RECORD OF THE 18th MEETING

Held at Headquarters, New York,
on Tuesday, 5 May 1981, at 10.30 a.m.

Chairman: Ms. WELLS (Australia)

CONTENTS

Measures to improve the situation and ensure the human rights and dignity of all migrant workers (continued)

Human rights questions (continued)

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The meeting was called to order at 11.05 a.m.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (continued) (E/1981/25 and E/1981/26; E/1981/C.2/L.16)

Draft resolution E/1981/C.2/L.16

1. The CHAIRMAN drew attention to the following oral changes made by the representative of Algeria when introducing the draft resolution at the previous meeting: in the ninth preambular paragraph, the words "recommended for adoption by the Commission for Social Development" had been added after the words "its resolution 1981/..."; in operative paragraph 4, the words "relating to the elaboration of the International Convention on" had been replaced by the words "carried out for".
2. Mr. SHAFT (United States of America) said that his delegation agreed with the representative of Algeria that the draft resolution should seem familiar. The reason was because it was similar to draft resolution VIII recommended by the Commission for Social Development in its report (E/1981/26) and adopted in the Second (Social) Committee the week before. His delegation had not anticipated a second draft resolution on virtually the same subject. The draft resolution under consideration also followed closely many of the provisions of resolution 37 (XXXVII) of the Commission on Human Rights; it included all the essential elements of the three operative paragraphs of that resolution, which the Commission had been unable to adopt by consensus.
3. His delegation did not question the importance of or the need to respect the human rights of migrant workers and their families. It did not, however, accept the need for another international convention on the subject. Moreover, the United States remained convinced that the International Labour Organisation (ILO) was the appropriate forum for discussion of migrant workers and for drafting any new international instruments for which a need might develop.
4. His delegation did not therefore express the hope, as did operative paragraph 3 of the draft under consideration and resolution 37 (XXXVIII) of the Commission on Human Rights, that a draft convention could be completed during the thirty-sixth session of the General Assembly. Expressing such a hope assumed in advance that a convention was desirable. Moreover, the time-frame set was unrealistic.
5. Accordingly, he requested that a vote be taken on the draft resolution under consideration and said that his delegation would abstain, as it had done on other resolutions, on that subject.
6. Mrs. SEMICHI (Algeria) said that after what she had just heard, her delegation, on behalf of the sponsors, regretfully requested a recorded vote.

7. Mr. LINCKE (Federal Republic of Germany) said that his delegation had already explained its position on draft resolution VIII submitted by the Commission for Social Development. The draft resolution under consideration was similar and his delegation did not see the need for it. He shared the general view that the subject deserved great attention but he did not wish to see a duplication of the work being carried out by ILO. In other words, he did not see the need for an additional convention, and the time-frame proposed was unrealistic. Accordingly, his delegation would abstain during the vote.

8. At the request of the representative of Algeria, a recorded vote was taken on draft resolution E/1981/C.2/L.16

In favour: Algeria, Argentina, Australia, Bahamas, Barbados, Belgium, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Cyprus, Denmark, Ecuador, France, German Democratic Republic, Ghana, India, Indonesia, Ireland, Italy, Jordan, Kenya, Libyan Arab Jamahiriya, Mexico, Morocco, Nepal, Nigeria, Norway, Pakistan, Peru, Poland, Senegal, Spain, Sudan, Thailand, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Venezuela, Yugoslavia, Zambia.

Against: None.

Abstaining: Germany, Federal Republic of, United States of America.

9. Draft resolution E/1981/C.2/L.16 was adopted by 44 votes to none, with 2 abstentions.

10. Mr. GIUSTETTI (France) said that his delegation's vote was an indication of its appreciation for the spirit of the draft resolution. France was fully convinced that the drafting of an international convention on the protection of the rights of all migrant workers and their families was a task to be carried out by all States jointly, rather than by two groups pitted against each other. It should be understood that the issue was a difficult one, which needed time to be resolved. His delegation therefore had reservations regarding the last part of operative paragraph 3, which was unrealistic. The Working Group must bear in mind that there were divergent as well as convergent interests and should take the time necessary to complete its work.

11. Mr. VERKERCKE (Belgium) said that his delegation's vote was an indication of its approval of international co-operation for the benefit of migrant workers. However, it had reservations with respect to the United Nations preparing a draft convention because that work should not be detrimental to or a duplication of the work carried out by ILO. The appeal for the General Assembly to adopt the draft convention at its thirty-sixth session was premature.

12. The CHAIRMAN announced that the Committee had thus concluded its consideration of agenda item 8.

HUMAN RIGHTS QUESTIONS (continued) (A/36/209; E/1981/25 and Corr.1 and Add.1, E/1981/28 and E/1981/68; E/1981/C.2/L.12-L.15/Rev.1 and E/1981/C.2/L.17-L.20)

13. The CHAIRMAN drew attention to the issues in the report of the Commission on Human Rights on its thirty-seventh session (E/1981/25) that required action by or were brought to the attention of the Economic and Social Council.

Draft resolution I

14. The CHAIRMAN drew attention to the amendments to the draft resolution proposed by the Byelorussian Soviet Socialist Republic and contained in document E/1981/C.2/L.18.

15. Mr. KOMISSAROV (Byelorussian Soviet Socialist Republic) said that his delegation had been forced to propose amendments because, when the draft resolution was being prepared by the Commission on Human Rights at its thirty-seventh session, the principle of consensus and agreement among members of the Working Group had been violated. That principle was an important one in the context of the activities of the Working Group, which was entrusted with drawing up international documents. His delegation strongly objected to the fact that in the Commission on Human rights, after so many years of work, the draft Declaration, sections of which had brought forth a wide divergence of views, had been imposed on members. That divergence had been evidenced by a number of square brackets in the text before the Working Group. Instead of demonstrating the need for co-operation to promote the conclusion of the draft Declaration, the Working Group had arbitrarily removed the square brackets, an unacceptable method of work.

16. The first of his delegation's amendments, for a new operative paragraph 1, was intended to enable Member States to submit their comments on the draft Declaration. That was necessary because the Commission on Human Rights had received comments from a relatively small number of Member States and the views of all should be heard on a matter that affected the interests of millions of people. That was the customary procedure for the adoption of international documents by the General Assembly.

17. The second proposed amendment was intended to eliminate all forms of gross violations of the normal procedure of work of the Commission on Human Rights. The Commission should be given the opportunity to work in a dignified manner and to adopt the draft by consensus.

18. His country knew the tragic consequences of intolerance based on religious discrimination and believed that any international document on that subject should be an effective instrument for the solution of the problem.

19. Mr. O'DONOVAN (Ireland), after referring to the second amendment proposed by the Byelorussian Soviet Socialist Republic, said that the Commission on Human Rights had been considering the draft Declaration since 1974 and had produced a fairly lengthy and acceptable draft. The Economic and Social Council would therefore be remiss if it were to return the draft for further consideration by the Commission. Any comments on or amendments to the draft could be made when it was considered by the General Assembly.

(Mr. O'Donovan, Ireland)

20. With regard to the first proposed amendment, his delegation would normally agree to submit it to Member States for comments. However, it had already been submitted to Member States twice before and his delegation did not see the need to do so for a third time. Furthermore, two similar drafts had been dealt with in the Second (Social) Committee and in the Third Committee of the General Assembly: the drafts of the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women. Normally, as soon as a functional commission submitted a text to the Economic and Social Council, the Council submitted it to the General Assembly, where it was discussed and amended. The same procedure should be followed in the case of the draft under consideration. The draft was usually submitted to Governments for comments at the beginning of the work of the functional commission, not at the end. For those reasons, his delegation would vote against the amendments proposed in document E/1981/C.2/L.18.

21. At the request of the representative of the Byelorussian Soviet Socialist Republic, a separate vote was taken on the first amendment in document E/1981/C.2/L.18.

22. The first amendment was rejected by 25 votes to 10, with 13 abstentions.

23. Mr. KOMISSAROV (Byelorussian Soviet Socialist Republic) said that, when his delegation had been drawing up its amendments, many delegations had demonstrated a spirit of understanding but had stated that they had procedural difficulties in supporting the second proposed amendment; to accede to their wishes and in a spirit of co-operation, his delegation would not insist on a vote being taken on it. However, that should not be interpreted as a change in his delegation's position of principle regarding draft resolution I submitted by the Commission on Human Rights. He therefore proposed that draft resolution I be put to the vote, during which his delegation would abstain.

24. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) said that in the Working Group of the Commission on Human Rights, the principle of consensus had been violated, as a result of which the draft Declaration could not be regarded as complete. It should therefore be returned to the Commission for further consideration. Delegations that wished to see the draft receive wide support should agree to its being resubmitted to the Commission which, at its thirty-eighth session, might be able to reflect the position of all States in the draft. His delegation was unable to support the draft Declaration as it stood.

25. Mr. FAREED (Pakistan) said that his delegation would vote in favour of the draft resolution, as it had done in the Commission on Human Rights, because it understood that amendments could be submitted to the General Assembly at its thirty-sixth session.

26. Draft resolution I was adopted by 45 votes to none, with 5 abstentions.

27. Mr. BURAYZAT (Jordan) said the draft resolution and the draft Declaration contained therein were necessary and, accordingly, his delegation had voted in favour. That did not mean, however, that his delegation agreed entirely with the contents. It had certain difficulties, which it would bring up at a later stage.
28. Mr. YANG Wenchang (China) said that the Commission on Human Rights, at its thirty-seventh session, had completed the draft Declaration and submitted it to the Economic and Social Council, which in turn should submit it to the General Assembly for consideration and adoption at its thirty-sixth session. China's Constitution provided for freedom of religious belief and his delegation therefore accepted the basic concept of the draft. China had voted in favour of the draft resolution; however, it had not taken part in the preparation of the text and had not yet received it in the Chinese language. As a result, the competent bodies in China had not yet been able to study it and, accordingly, his delegation reserved the right to comment on the text at a later stage.
29. Mrs. WARZAZI (Morocco) said that her delegation associated itself with the statements made by the representatives of Pakistan and Jordan. It welcomed the fact that the draft Declaration would finally be submitted to the General Assembly after 19 years. That was a great victory for those who wished to guarantee freedom of thought and religion for all, and Member States would have an opportunity to state their views and submit amendments when the draft was taken up by the General Assembly.
30. Mr. WASCINSKI (Poland) said that, in accordance with the position of his delegation in the Commission on Human Rights, he had abstained in the vote because the Working Group had not observed the principle of consensus.
31. Ms. BOZHKOVA (Bulgaria) said that her delegation had abstained in the vote for reasons which it had given in previous statements.
32. Mr. GURAKAN (Turkey) said that his delegation had voted in favour of the draft resolution. Nevertheless, it reserved the right to comment further at a later date because it had not participated in the work of formulating the draft Declaration.

Draft resolution II

33. The CHAIRMAN said that draft resolution II had been adopted by the Commission on Human Rights without a vote. The financial implications were contained in annex III, paragraphs 40 and 41, of the Commission's report (E/1981/25).

34. Draft resolution II was adopted without a vote.

Draft resolution III

35. Draft resolution III was adopted without a vote.

Draft resolution IV

36. The CHAIRMAN said that draft resolution IV had been adopted by the Commission by a vote of 22 in favour, 7 against and 14 abstentions. The representative of Denmark had proposed an oral amendment of a technical nature to operative paragraph 2 of that draft resolution which would replace the phrase "to the Economic and Social Council at its first regular session in 1982" with the phrase "to the General Assembly at its thirty-sixth session". She also drew the attention of the Committee to amendments to that draft resolution submitted by the Soviet Union and contained in document E/1981/C.2/L.19.
37. Mr. CHERNICHENKO (Union of Soviet Socialist Republics) said that the extension of the mandate of the Fund and the redesignation of the title could only undermine the effectiveness of the Fund. The effort to provide assistance to the victims of human rights violations in Chile would be weakened because the board of trustees would have other tasks to accomplish and could not devote itself entirely to that issue. Furthermore, it was naive to think that the redesignation of the Fund could somehow provide immediate assistance to the victims of torture. If the members of the board of trustees elaborated their own criteria for defining torture and the conditions for providing assistance, that could have a negative effect on the work on the draft Convention against Torture. The sponsors of the draft resolution were proposing that the board of trustees should consider those questions before States had elaborated any general position within the framework of the Convention. Furthermore, the channels for providing such assistance were not clear. The established channels of humanitarian assistance could prove to be completely ineffective, as had been the case, for example, in South Africa, South Korea and El Salvador.
38. The draft resolution was not clearly worded. Paragraph 1 (a) referred not only to torture but also to violations of human rights in general. The reference to victims of violations by States in which the human rights situation had been the subject of resolutions or decisions by either the General Assembly, the Economic and Social Council, or the Commission on Human Rights was also vague. Paragraph 1 (d) mentioned an annex which did not exist. In general, the draft resolution needed to be elaborated further. That could not be done effectively until the draft Convention against Torture had been completed.
39. The Soviet amendments in document E/1981/C.2/L.19 were designed to maintain the existing title and mandate of the Fund.
40. The CHAIRMAN pointed out that, although there was no annex to the draft resolution, operative paragraph 2 called for specific proposals for the arrangements for the management of the Fund in accordance with the principles set forth in paragraph 1 (a) of the draft resolution.
41. Mr. DYRLUND (Denmark) said that draft resolution IV had been submitted by the Nordic countries as a follow-up to General Assembly resolution 35/190, which requested the Commission on Human Rights to study the possibility of extending the mandate of the United Nations Trust Fund for Chile. That resolution had been

(Mr. Byrlund, Denmark)

proposed because the Trust Fund for Chile had not been very successful in attracting national contributions and because many countries had expressed an interest in a voluntary fund for victims of serious human rights violations of a more general nature.

42. Draft resolution IV concentrated on providing assistance to the victims of torture because torture was a particularly appalling violation of human rights and was clearly defined in the Declaration of 1975. The Soviet amendments to the draft resolution would confine the activities of the Fund to the victims of torture in Chile and delay the redesignation of the Fund to some later undefined date. The proposed new Fund would cover not only Chile but any other country where there were victims of torture. The delay which would result from the Soviet amendments would not serve any purpose since little support for the Fund had been forthcoming in the past and a number of delegations had clearly stated that as a matter of principle they would not support the fund for Chile. For those reasons, his delegation would vote against the Soviet amendments to the draft resolution.

43. Lastly, he pointed out that the Fund was a voluntary one and that no Member State would be compelled to contribute if the draft resolution was adopted. On the other hand, those countries which wanted to do so should be given an opportunity to contribute to the new Fund, which could be one of the most practical results of the thirty-seventh session of the Commission.

44. Mrs. WARZAZI (Morocco) said that her delegation would be consistent in following its position of support for General Assembly resolution 35/190, which requested the Commission on Human Rights to study the possibility of extending the mandate of the Fund. Draft resolution IV was perfectly in accordance with that resolution. She expressed the hope that with its new title and extended mandate, the Fund would receive the broad support it deserved and would be used to assist victims of torture, not to finance travel by officials. Accordingly, her delegation could not support the amendments proposed by the Soviet delegation.

45. The amendments in document E/1981/C.2/L.19 were rejected by 23 votes to 8, with 16 abstentions.

46. Draft resolution IV, as amended orally by the representative of Denmark, was adopted by 34 votes to 5, with 10 abstentions.

47. Mr. MATELJAK (Yugoslavia) said that his delegation had abstained in the votes on the Soviet amendments and draft resolution IV. He reiterated the opposition of his delegation to any change in the current status of the United Nations Trust Fund for Chile.

48. Mrs. ARANA (Peru) said that in accordance with the position of her delegation, as expressed the previous day, her delegation had voted against the Soviet amendments and in favour of draft resolution IV.

Draft decision 1

49. The CHAIRMAN suggested that, in order to expedite matters, delegations which wished to explain their votes should do so after action had been taken on all the draft decisions. Exceptions to that rule, however, would be made for delegations which had a particular interest in explaining their positions.

50. Draft decision 1 was adopted without a vote.

Draft decision 2

51. Draft decision 2 was adopted without a vote.

Draft decision 3

52. Mr. URIARTE (Chile) requested that a vote be taken on the draft decision.

53. Draft decision 3 was adopted by 27 votes to 4, with 19 abstentions.

Draft decision 4

54. Mr. MOUTENI (Argentina) drew attention to paragraph 209 of the report on the thirty-seventh session of the Commission on Human Rights, which stated that the Commission had decided to note, without approving, the administrative and financial implications relating to resolution 10 (XXXVII) on the question of enforced or involuntary disappearances. At that time, objections had been raised to the proposals regarding the recruitment of supplementary staff to assist the Working Group to submit a report on its work to the Commission's thirty-eighth session, to carry out initial screening and classification of information, to analyse and prepare the information for the Group and to maintain correspondence with those involved in the procedure. Those proposals were outlined in paragraphs 25 and 26 of annex III of the report. In the opinion of the Argentine delegation, such staff as were required to carry out the extremely important tasks facing the Group must be found from among the permanent officials of the Secretariat. The kind of work that was required was far too delicate to be entrusted to persons recruited solely for the duration of the Group's mandate, who might be politically motivated and fail to act with all the discretion that was required to protect persons providing information and to limit the dissemination of information provided by Governments - as stipulated in operative paragraph 4 of the resolution. It was obvious that permanent staff members, who were committed to achieving the Organization's principles and objectives, could be expected to exercise a far greater sense of responsibility than supplementary staff recruited on an ad hoc basis for just a few months. The Commission had appointed experts whose known honesty and extensive knowledge equipped them ideally to handle the type of information to which the mandate of the Working Group would give them access and it was unacceptable that the Organization should recruit outsiders to assist the Group.

55. Because it believed that the question of disappeared persons was one of the most delicate issues with which the Division of Human Rights had been involved,

(Mr. Molteni, Argentina)

the delegation of Argentina, whose Government had co-operated with the Working Group during the first year of its mandate and hoped to continue to do so on a basis of mutual trust, therefore proposed that the Council should take note of the proposals regarding financial implications with the exception of paragraphs 25 and 26 and of the corresponding references in paragraph 28.

56. Mr. VAN BOVEN (Director, Division of Human Rights) drew attention to operative paragraph 6 of resolution 10 (XXXVII), which requested the Secretary-General to continue to provide the Working Group with all necessary assistance, in particular the staff and resources it required to perform its functions in an effective and expeditious manner, and if necessary to make the necessary arrangements to ensure the continuity of the Secretariat's work. Although the Division of Human Rights had already redeployed members of its permanent staff, it would be impossible to cope with all the work required under the mandate of the Working Group without the assistance of supplementary temporary staff, who, he reminded the Committee, were governed by the rules of the Organization and worked under the supervision of permanent staff members. It was in the nature of the United Nations budgeting system that extra manpower should be taken on where necessary to perform tasks entailing non-recurring expenditure. Mandates such as that of the Working Group were renewed every year or two years and were not part of the normal programme of the Organization. In view of the demands of the zero-growth budget, therefore, there was no alternative in the present context but to engage temporary staff under the supervision of permanent officials. He recalled, finally, that the Council and the Commission on Human Rights were required to express themselves on the definition of mandates but that, although they might wish to discuss financial and administrative arrangements, the decision in such matters belonged to the United Nations budgetary organs, and specifically ACABQ and Fifth Committee. The Council accordingly always took note of financial implications without approving them.

57. Mr. MOLTENI (Argentina) said that the Division of Human Rights had sufficient personnel to fulfil all the requirements of the resolution other than those referred to in paragraphs 25 and 26 of the proposals concerning financial implications. The matter of engaging supplementary staff should therefore be examined by the General Assembly at its next session and not endorsed by the Council. His delegation therefore proposed that the Council take note of the proposals regarding financial implications but refrain explicitly from adopting paragraphs 25 and 26.

58. Mr. VAN BOVEN (Director, Division of Human Rights) said that the Commission on Human Rights had given a certain mandate to the Secretary-General, who had considered the financial implications entailed. If the Council considered that the mandate should not be carried out, it must say so. The manner in which the Secretary-General envisaged carrying out the mandate was examined by ACABQ and the Fifth Committee, and no precedent existed for the Council to express its views on the subject.

59. Mrs. WARZAZI (Morocco) said that she failed to understand the justification for the lengthy discussion that was under way. Neither the Council nor the Commission on Human Rights had any mandate to advise on administrative arrangements, which were the subject of negotiations between the Secretary-General and the competent organs, namely ACABQ and the Fifth Committee.
60. The CHAIRMAN said that the reservations of the Argentine delegation would be duly recorded in the summary record.
61. Draft decision 4 was adopted without a vote.

The meeting rose at 1.10 p.m.