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AND  
SOCIAL COUNCIL**

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ECONOMIQUE  
ET SOCIAL**

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COMMISSION ON HUMAN RIGHTS

## THIRD SESSION

## SUMMARY RECORD OF THE FIFTY-FIRST MEETING

Lake Success, New York  
Friday, 28 May 1948, at 10.45 a.m.

Chairman: Mrs. Franklin D. ROOSEVELT United States of America

Vice-Chairman: Mr. CHANG WU China  
Mr. Rene CASSIN France

Rapporteur: Mr. AZKOUL Lebanon

Members: Mr. HOOD Australia  
Mr. LEBEAU Belgium  
Mr. A. STEPANENKO Byelorussian Soviet  
Socialist Republic  
Mr. SANTA CRUZ Chile  
Mr. Omar LOUFI Egypt  
Mrs. MEHTA India  
Mr. M. de J. QUIJANO Panama  
Mr. LOPEZ Philippines  
Mr. KLEKOVKIN Ukrainian Soviet Socialist Republic  
Mr. PAVLOV Union of Soviet Socialist Republic  
Mr. WILSON United Kingdom  
Mr. MORA Uruguay  
Mr. VILFAN Yugoslavia

Also present: Mrs. LEDON Commission on the Status of Women

Representatives of Specialized Agencies:

Mr. R. W. COX International Labour Organization

Consultants from non-governmental organizations:

Miss Toni SENDER American Federation of Labor  
Mr. A. J. van ISTENDAHL International Federation of  
Christian Trade Unions

Secretariat: Mr. J. HUMPHREY Director of the Human Rights Division  
Mr. E. LAWSON Secretary of the Commission

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CONSIDERATION OF ARTICLE 2 OF THE DECLARATION (documents E/CN.4/95, E/CN.4/99, E/CN.4/102, E/600)

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic)

thought that a comparison of the Geneva text of Article 2 of the declaration with the amendments to it proposed by the Chinese delegation and by the Indian and United Kingdom delegations would reveal that the amendments not only failed to improve the text, but were actually inferior to it.

In spite of some rather serious deficiencies, Article 2 as given in the report of the second session of the Commission on Human Rights preserved the idea of the just requirements of the democratic State. Those words were left out of the Chinese amendment and of the Indian and United Kingdom amendment. He wondered what the reasons for their deletion might be. The representative of Chile had stated during the previous meeting that the word "democracy" ought to be eliminated because it had not been clearly defined. The Commission would be running counter to the purposes for which it had been set up if it deleted all mention of democracy in the Declaration. He would vote against any amendment deleting the word.

Mr. SANTA CRUZ (Chile) denied having said that the concept of democracy had not been clearly defined. He had defined what he personally meant by the word; but different ideas of democracy had been expressed in the Commission. If the meaning of the word were not defined, Article 2 might lead to abuses. The notion of the just requirements of the democratic State varied from country to country. For example, Marxism aimed at the creation of a classless society in which the State as such no longer existed. This definition of its aims showed that its highest stage had not yet been achieved in countries like the USSR, where a powerful State existed. According to the Marxist theory, the USSR was

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in the intermediate stage of the dictatorship of the proletariat. The organs of information, culture and the arts were controlled by the Party because the revolutionary conscience was the sole source of law. The USSR Government considered that even in that intermediate stage, it represented a democratic State. But he, for his part, could not imagine that dictatorship, even if temporary, could exist side by side with democracy. The Commission was faced with two different concepts of human rights, as had been clearly demonstrated in connexion with the question of the right of emigration. It was therefore only logical to define the notion of democracy.

Mr. LEBEAU (Belgium) explained that in his country the word "democracy" was rarely used except in the expression "democratic freedoms." Those freedoms were so deeply rooted in the Belgian national conscience that there was no need to speak of them except when they were endangered as, for example, by foreign occupation. Consequently he thought such a formula would not serve any useful purpose, since democracy was one of the fundamental institutions of his people and since it had, during recent decades, come to have different meanings in different countries.

Mr. Lebeau would vote for the French amendment which he preferred to the Drafting Committee's text, because it spoke firstly of man's duties towards society and secondly of the free development of his personality.

Mrs. MEHTA (India) considered the Indian and United Kingdom amendment accurate and concise. The words "democratic State" had been avoided as they covered different concepts. Moreover, there seemed no need to say that man had duties towards society since a declaration of rights, not duties, was being drafted.

/Mr. VILFAN

Mr. VILFAN (Yugoslavia) pointed to a contradiction in the arguments advanced by those who favoured the Indian and United Kingdom amendment. Article 2 was intended to define the limitations to human rights. Those who supported the amendment feared that the limitations might be interpreted differently and that the word "democracy" might lead to abuses. He felt on the contrary that the wording suggested in the amendment was far more restrictive than the former article 2. According to the amendment, each State would be entitled to limit human rights to the extent to which it considered them contrary to the interests of society and the State. Such a wording would leave the door open for independent decisions.

Referring to the observations made by the Belgian representative, he stressed that democratic freedoms were at present still threatened by the remnants of fascism. It was therefore important to mention them; and the Belgian representative's argument could be turned against him.

The Drafting Committee's text was preferable to the French draft amendment. The Declaration dealt with human rights, not duties. He would therefore vote against both the French amendment and the Indian and United Kingdom amendment.

Mr. MORA (Uruguay) supported the Indian and United Kingdom amendment. There were certain dangers in the text suggested by the Drafting Committee and by the French amendment, for it involved three categories of limitations: the rights of others, the rights of the State, and the rights of society. A distinction between the State and society might lead to abuses since the State acted only in the name of society; it was better to delete all mention of intervention by the State.

/Mr. AZKOUL

Mr. AZKOUL (Lebanon) observed that the first three articles of the Declaration laid the foundation for the rights subsequently enumerated; for that reason it was permissible to mention in them the duties of the individual. In the first article, the Commission had stated the basis for human rights; the second article should include the bases for the limitation of those rights. He therefore accepted the first part of the French amendment.

In the second part of the amendment the word "State" was open to question. All countries did not consider the State as a desirable entity in itself, with rights that might conflict with the rights of the individual. Whatever opinion the various members of the Commission might hold on the subject the word "State" should be deleted, since it stood for an idea on which all did not agree. On the other hand the words "the welfare and security of all" were acceptable to everybody. He agreed with the representative of Chile that the word "democracy" should not be used. He would be willing to speak of the rights of a democratic State if those rights had been previously defined by an international instrument, but that had not been done.

He therefore proposed that the first part of the French amendment should be combined with the second part of the Indian and United Kingdom amendment beginning with the words "subject only..."

Mr. CHANG (China) suggested that his amendment should be changed to read as follows: "The exercise of these rights requires recognition of the rights of others and the welfare of all." Welfare included the idea of security; and recognition of the rights of all included the idea of democracy. He stressed the value of the voluntary element in the word "recognition". Emphasis should be placed not on restraining people, but on educating them. The purpose of all social and political  
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education was the voluntary recognition of the rights of others. The Commission's ideal should not be the imposition of restrictions but rather the voluntary recognition by all of the rights of others. That was the ideal which the Declaration should express.

Mr. WILSON (United Kingdom) remarked that while the Chinese representative's proposal was in many ways a generous one it did contain some dangers too. The limitations provided for in the Indian and United Kingdom amendment included those voluntarily accepted, but in any form of human society it was imperative that the State should impose certain limitations in the interest of all. The word "recognition" merely expressed an ideal and was inadequate to ensure the fulfilment of the Commission's task.

Mr. HOOD (Australia) observed that the purpose of article 2 was to emphasize the fact that every right carried with it obligations. That idea was expressed in the text prepared at the second session at Geneva and, more specifically, in the French amendment, but it was not clearly expressed in the Indian and United Kingdom amendment. If there should in fact be very definite limitations on the exercise of human rights, a clear statement to that effect should be made. He favoured the text prepared at the second session at Geneva and the French draft, and the two might be combined and improved to read as follows: "In the exercise of his rights everyone is limited by the rights of others and by his duties to the democratic society which enables him freely to develop his spirit."

He was opposed to the words "democratic State" but preferred to keep the word "democratic" in connexion with "society".

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) began by remarking that the notions of the State and of democratic society were embodied in the documents signed during the war. No difficulties had then appeared, because the conception of democracy provided a common basis for every interpretation; there was thus no reason for rejecting it to-day.

The idea contained in the United Kingdom proposal erred in being too vague. Who was to define the "security" and the "welfare" of all? If the Commission were to consider such difficulties of definition, many other articles of the Convention would have to be dismissed.

He had been challenged to speak of democracy, and he accepted the challenge. In his view, a democracy was a State in which all citizens had an equal right to participate in the activities of the Government. That principle was common to all democracies. Other features common to all democratic States and institutions were the fact that officials were elected and could be superseded, the opportunity given to the masses to participate in government, the obligation for a minority to submit to the majority of the people, and accessibility to all offices of State.

The idea of democracy was linked even by its etymology with that of the people and the power of the people. It had been conceived in antiquity; but the Greeks had not placed power effectively in the hands of the people, whom they regarded as consisting of none but free-born Greek citizens. Hence the majority of the population, being composed of foreigners living in Greece or else of slaves, had no powers. By "free people" the Greeks meant the aristocracy, and their "democratic" State was governed by slave-owners.

In a modern democracy, the State was not a power imposed on society by force. It was a product of the society which had given it birth. The State had unfortunately in certain cases detached itself from the society from which it had sprung, and had come to dominate and oppress that society; the police State, in fact, came into being, and was supported by the class which controlled its economy.

The State was not eternal; it would cease to exist as soon as class distinctions disappeared. It was necessary to preserve it for the time being in order to protect collective property and to defend the people against its external enemies (in particular foreign spies and saboteurs). Thus certain measures such as restrictions on freedom of movement, were in the USSR only a defensive reaction of the Soviet people. The State also took charge of the organization of economic and cultural activities. If the Soviet Union had had no enemies, the State would have already ceased to exist, but she was surrounded by them and was therefore forced to take steps to defend herself.

The advantage of the Soviet conception of the State was that it was democratic in a new sense of the word. It was supported by the immense majority of the people and was bound up with the defence of fundamental human rights. That was true democracy: the right to participate in government. That right existed in theory in many States, but was not exercised in fact.

Quoting figures to show the extent to which the peoples of the Soviet Union participated in government, he said 101,717,000 electors had registered in the last national elections. Out of that number, 101,450,000 had voted, i.e. a proportion of 99.7%. The candidates on the Governmental Communist list had received 100 million votes, i.e. 99.18%. There had been 819,000 adverse votes, i.e. 0.18%. In the local elections there had been 100,630,000 voters and the opposition amounted to only 818,000 votes, i.e. 0.18%.

Soviet popular democracy was thus based on unity. The same characteristic was found in certain States of Eastern Europe. That unity had also been demonstrated by the Soviet people during the war; they had defended their system of Government when they might have abandoned it; they had stood firm when they might have deserted. The heroism and the spirit of sacrifice of the Russian people had shown how much they valued the system. It was therefore a real democracy.

It had been claimed that the Soviet system was not a hundred per cent democratic because it had only one party. Since when was the existence of a number of parties the criterion of democracy? Such a variety of parties merely signifie

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the existence of a class war: there were landowners' parties, middle class parties, peasants' and workers' parties, the last two being often separated by divergent interests.

In the Soviet Union there was neither a middle class nor a landowning class, and the fundamental interests of the peasants and the workers were identical. Was it suggested that there should be a number of parties in the USSR? In that case a middle class and a landowning class would have to be introduced there. But the Soviet people could well dispense with such exploiting classes. They did not want them.

Thus the moral unity of society under the Soviet regime had proved itself in the test of war and had subsequently been confirmed by the elections. Millions of people participated in the activities of the central Government and the local governments. The single party adequately defended the interests of the people and the rights of man.

The Soviet Union did not repudiate the progressive elements in the bourgeois, or capitalist democracies. The capitalist system was obviously an advance on the feudal system; it was obviously more tolerable than the Hitlerian State, the symbol of the totalitarian State. Under the capitalist system government was carried on not by the people, but by a minority, by the Rockefellers and the Morgans. Frequently trusts and monopolies were the masters. That was not democracy; capitalism rejected democracy and replaced it by an oligarchy.

He did not wish to criticize American democracy, since it had many features in common with Soviet democracy. The discussion had been caused by the remarks made by certain delegates.

He observed that the struggle against Fascism had not been delayed until a definition of it was found, and for comparable reasons the representative of the USSR opposed the deletion of all mention of democracy in article 2.

Mr. CASSIN (France) pointed out that the French text fulfilled certain requirements not covered by the United Kingdom Indian proposal. In fact, it was a combination of three different texts:

/1. The text

1. The text describing society's duty towards the individual;
2. The text defining the fundamental duties of man;
3. Finally, the text according to which everyone is limited in the exercise of his rights by the rights of others.

Those three elements had reappeared during the discussion. The Indian and United Kingdom proposal, however, did not refer to the relations between man and society or to their mutual duties.

The second part of the French text was a compromise; that was why it retained the idea of the democratic State, which was much less important than that of democracy itself. The State was, in fact, a perishable product of society, but it had to be maintained, for it centralized the legislative power.

Government of the people, by the people, for the people: he could see no reason for abandoning that conception of democracy. In his view the criterion of democracy in any nation was the extent to which human rights were really respected. A State which did not respect them was not democratic, even though it claimed to be so; hence the supreme importance of the word, which must be retained.

If the text proposed by his delegation were not adopted, he would vote in favour of the text proposed by the representative of Australia.

The CHAIRMAN appointed a drafting committee, composed of the representatives of Australia, China, France, India, Lebanon and the United Kingdom, to consider the various proposals before the Commission and submit two texts, one containing and the other omitting the notion of the democratic State. If the Committee could not reach agreement, it would at least suggest the order in which the various proposals should be put to the vote.

Mr. LOPEZ (Philippines), had been deeply interested in the lengthy discussion of the Soviet Union representative, but he did not think it served any useful purpose at the present stage of the discussion. His delegation

/had voted

had voted in favour of the Geneva text and was not afraid of the word democracy. Such fears would not exist had not the representative of the Soviet Union been given the opportunity to appear as the sole champion of democracy.

The conceptions embodied in the Draft Declaration were all abstract ones, and if one of them were to be discarded for that reason, then they would all have to be discarded.

He for his part would vote in favour of the text proposed by the Australian representative.

Mr. AZKOUL (Lebanon) thought the USSR representative was confusing the sphere of action with that of thought. The members of the Commission were not on a battlefield; their sole duty was to draw up a declaration.

He agreed with Mr. Cassin's conception of democracy. If the representative of the Soviet Union insisted on drawing a distinction between capitalist and communist, majority and minority democracies, then there would be no other solution but to define in the Declaration what kind of democracy was meant.

Mr. SANTA CRUZ (Chile) disclaimed any wish to criticize Soviet democracy; he had confined himself to pointing out certain differences. The speech of the USSR representative, which had criticized other forms of democracy, had merely confirmed those differences. In this connection, he would recall that twenty-one nations meeting at Bogota had adopted a resolution condemning Communism as anti-democratic.

Mr. PAVLOV (Union of Soviet Socialist Republics) considered that the discussion should cover all possible forms of democracy. Those democracies lived together and could continue to live together in peace. If that conception was maintained in the Declaration, none of those forms need be excluded. The essential point in his opinion was respect for the will of the people. That principle had been recognized in the Atlantic Charter.

/The representative

The representative of the USSR concluded by appealing to all the members to co-operate, and stated that he would like to have an immediate vote on the various proposals. He would vote in favour of the text proposed by the French delegation and the Geneva text.

Mr. CASSIN (France) recalled that there were three different ideas in connection with article 2:

1. To mention the democratic State;
2. To make no mention either of the State or of democracy;
3. To mention democratic society.

He thought, therefore, that the Drafting Committee should submit three texts instead of two.

The meeting rose at 12:55 p.m.