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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SIXTY-SEVENTH MEETING

Held at Lake Success, New York,  
on Thursday, 10 June 1948, at 11 a.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. Charles MALIK	Lebanon
<u>Members:</u>	Mr. JOCKEL	Australia
	Mr. STEYAERT	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. LARRAIN	Chile
	Mr. CHANG	China
	Mr. LOUFI	Egypt
	Mr. CASSIN	France
	Mrs. MEHTA	India
	Mr. de QUIJANO	Panama
	Mr. INGLES	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FONTAINA	Uruguay
	Mr. VILFAN	Yugoslavia

Also present:

Mrs. LEDON	Commission on the Status of Women
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Representatives of specialized agencies:

Mr. METALL	International Labour Organization (ILO)
Mr. LEBAR	United Nations Educational Scien- tific and Cultural Organization (UNESCO)

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Consultants from Non-Governmental Organizations:

Miss SENDER	American Federation of Labor
Mr. VANISTENDAEL	International Federation of Christian Trade Unions
Miss DRENNAN	Catholic International Union for Social Service
Mr. PRENTICE	Commission of the Churches on International Affairs
Mr. BROTMAN	Co-ordination Board of Jewish Organizations
Mr. STRAHLER	International Committee of the Red Cross
Mr. BIENENFELD	World Jewish Congress
Miss SCHAEFER	International Union of Catholic Women's Leagues

Secretariat:

Mr. HUMPHREY	Director, Human Rights Division
Mr. LAWSON	Secretary of the Commission

CONTINUATION OF THE CONSIDERATION OF THE REPORT OF THE DRAFTING COMMITTEE TO THE COMMISSION ON HUMAN RIGHTS (DOCUMENT E/CN.4/SR.95)

New article

The CHAIRMAN read the following text which the Sub-Committee had unanimously recommended to the Commission for adoption as an article of general principle to be added at the end of the Declaration:

"Everyone has the right to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized."

She then read a second text prepared by the French representative for inclusion in the Declaration preceding the articles on economic and social rights:

"Everyone as a member of society has the economic, social and cultural rights enumerated below, whose fulfillment should be made possible in every State separately or by international collaboration."

Mrs. MEHTA (India) wondered whether the adjective "good" was altogether necessary. It was obvious that a social order guaranteeing all

/the rights

the rights and freedoms set out in the Declaration on Human Rights would of necessity be "good". Conceptions of good and evil were relative. To speak of a "good" social order in which rights and freedoms could be fully realized led to the supposition that there could be a "bad" or "less good" social order which offered the same guarantees to mankind.

Mr. MALIK (Lebanon) was in favour of retaining the adjective "good;" he did not think it infringed on or affected the sense of the Sub-Committee's text, for the adjective qualified the social order, while the second part of the sentence laid down the conditions necessary to justify the adjective.

Mr. CHANG (China) suggested that the place to be given to the new articles should not be decided upon immediately. It was sufficient to agree that the articles would be added towards the end of the Declaration.

While supporting the idea that an article of general principle establishing everyone's right to a good social and international order should be included in the Declaration, he thought that the Commission should go further, and should affirm that it was the duty of all to contribute towards the establishment and maintenance of that order.

While stressing the importance of the question, he thought that there was no need for an immediate vote on the text proposed by the Sub-Committee. The Commission should reflect on what improvements might be made in it. He, therefore, suggested that the consideration of the question should be postponed till a later date.

If, however, the Commission decided on an immediate discussion of the two new articles, he would propose the inclusion in the first text of a phrase expressing the idea he had just set forth, namely, the need to affirm, side by side with the duties of the State, the individual's duty to contribute to the good social order he demanded. He therefore suggested adding

/after the

after the words "everyone has the right" either "and the duty to assist in the realization of" or "and the duty to bring about".

Mr. MALIK (Lebanon) entirely agreed with the idea Mr. Chang wished to have included in the Declaration, and realized its importance. That idea should, however, be stated in the Preamble which would mention the rights of States as well as the duties of the individual. To introduce the idea of the individual's duties into an article would be a departure from the form given to the other articles of the Declaration. The Commission should decide whether it considered such a departure justified by the importance of the article in question.

Mr. CHANG (China) said in answer to a question by the CHAIRMAN that article 2 did not fully meet the idea he wished to express by the new article. The duties of the individual mentioned in article 2 were those which he owed to the State of which he was a national, or to other nationals of that State. The article, the addition of which had been recommended by the Sub-Committee introduced a new idea, namely the individual's right to a good social order. As, however, the social order which the individual was entitled to demand, under the terms of that article, depended in the first instance on the individual's contribution to its establishment and maintenance, that right was dependent on the fulfillment of a duty which should be clearly stated.

Mr. CASSIN (France) referred to the circumstances which had led to the preparation of the two texts. As a result of the difficulties encountered during the consideration of article 23 and the following articles, the Commission had been struck by two defects in the text originally drawn up in Geneva: excessive length and repetition, on the one hand, and too much detail on the other. It should be remembered that the Commission was not called upon to draft the provisions of a national constitution but the

articles of an ~~international Declaration~~.

The Lebanese representative had at that time proposed that the articles of the Declaration should be drafted with a view to simplicity and clarity and that they should include a sort of prefatory article which would, in a sense, be a statement of general principle and would obviate the need to mention throughout the text of the Declaration the duties of the State to the individual.

The Sub-Committee entrusted with the drafting of the prefatory article had reached unanimous agreement on the first text which affirmed the need for a good social order which would permit the enjoyment of all the rights and freedoms set out in the Declaration on Human Rights. That text was, therefore, of a very general nature and covered all the articles of the Declaration. The unanimity shown in the Sub-Committee was proof that it answered a real need.

The second text proposed by the French delegation was more specific and applied to the economic, social and cultural rights which the Commission was examining at present. The Sub-Committee had not thought it necessary to retain it; the French delegation was today formally submitting it to the Commission.

Mr. JOCKEL (Australia) said that the text proposed by Mr. Cassin seemed to his delegation to be much more important and of greater scope than the one agreed upon by the Sub-Committee. His delegation would vote for the first text on condition that that text did not exclude Mr. Cassin's text.

Mr. MALIK (Lebanon) said that the majority in the Sub-Committee was of the opinion that the first text covered the second, and, therefore, made it redundant. To make a special reference to the economic, social and cultural rights would be to favour them in comparison with other rights and freedoms, which was inadmissible. The Commission should decide whether it wished to retain both texts or not.

Mr. WILSON

Mr. WILSON (United Kingdom) agreed that this represented the view of the majority of the Sub-Committee.

Miss SENDER (American Federation of Labor) thought both texts should be retained. The need for an article on general principle had become obvious during the consideration of the articles on economic and social rights. The Commission had realized that those rights had not been clearly enough defined in the Geneva text which, moreover, was far from complete. It was mainly in order to fill that gap that the Sub-Committee had been set up.

The original idea had not been accepted by the majority in the Sub-Committee, but it had been raised again by the French representative. The latter's text, therefore, corresponded more closely to the task entrusted to the Sub-Committee as well as to the idea which the Commission desired to express. Furthermore, the Commission had taken a formal decision regarding the inclusion of an article which would deal especially with economic, social and cultural rights.

Mr. JOCKEL (Australia) repeated that his delegation did not object to the adoption of the Sub-Committee's text, but it saw in it only a restatement of principle. The desired aim was to affirm the economic, social and cultural rights of the individual. In their present form, the articles of the Declaration on those rights were inferior to those of the Geneva text, which clearly established the responsibilities of both the State and society. Those articles had been altered to improve their form and style; but their importance should be established by the adoption of a prefatory article. The text proposed by Mr. Cassin was very complete in the sense that it stated the rights of the individual and indicated the State, as an entity or in collaboration with other States, as the guarantor of such rights.

/Mr. VILEAN

Mr. VILFAN (Yugoslavia) pointed out that there was a link between the new article which the Sub-Committee wished to be adopted, and article 2 which governed the relations between the individual and society; the ideas expressed in those articles were not identical but were very close. The Commission had decided to instruct the Sub-Committee to prepare a fresh draft of article 2; he wondered how far the fresh draft would make the new article useless. It would be difficult to vote before being sure of that point. That was why he thought the discussion of the new article premature.

Should the Commission decide to take a vote on Mr. Cassin's text immediately, he reserved the right to amend it so as to read "...whose fulfillment should be made possible by the State." That amendment was in line with the ideas he had put forward the previous day when the Commission had decided to draw up a prefatory article on economic, social and cultural rights.

Mr. STEYAERT (Belgium) said his delegation would be sorry if the first article were adopted to the exclusion of the article proposed by Mr. Cassin. The first had an altogether general bearing while the second stressed, to some extent, social, economic and cultural rights which were less well known.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought it was premature to pass judgment on the fate of either of the proposals, or on the Chinese amendment, which introduced an absolutely new idea. Since the articles in question were to come at the end of the Declaration, their consideration should be postponed until the end of the examination of the articles of the Declaration. Should the Commission decide, however, to discuss them in substance at once, the USSR delegation would have some serious objections to raise.

/The CHAIRMAN

The CHAIRMAN agreed that the final placing of the articles should be discussed later. It could be decided by the Style Committee. The Commission should first make known its position in regard to the two texts submitted to it and should decide whether it would consider both of them at once, or only one of them, or would not deal with them until a later stage of its work.

Mr. CHANG (China) asked for some enlightenment on the functions of the Style Committee. He thought that that Committee would deal mainly with questions of style and with the uniformity of translations, and he was surprised that it should be entrusted with important decisions such as the placing of articles.

The CHAIRMAN, supported by Mr. WILSON (United Kingdom) said that the Style Committee would only deal with questions of form and construction, and would take no decisions of substance.

A short discussion of procedure took place in the course of which Mr. CASSIN (France) pointed out the great difference between his text, which referred specifically to article 23 and the following articles, which the Commission was in the process of considering, and the Sub-Committee's text, which was a general text, and could quite suitably be considered when the Commission started revising the general texts.

The CHAIRMAN called on the Commission to vote on whether it would proceed to the consideration of the two texts immediately, or would postpone such consideration until later.

The Commission decided by 8 votes to 4, with 2 abstentions, to postpone until later the consideration of the text proposed by the Drafting Sub-Committee

The Commission decided by 6 votes to 6, with 2 abstentions, to postpone until later the consideration of the text proposed by Mr. Cassin.



Articles 27 and 28

The CHAIRMAN read out the text of article 27 as adopted at the Commission's second session, the alternative texts proposed by the French and United States delegations, the text of article 28 as adopted at the Commission's second session and the alternative text submitted by the French delegation (document E/CN.4/95). She also read out the draft article proposed by the Indian and United Kingdom delegations in place of articles 27 and 28 (document E/CN.4/99), reminding the meeting that the text submitted by the Chinese delegation had been withdrawn.

Mr. QUIJANO (Panama) emphasized his delegation's wish to contribute towards the establishment of the principle of the right to education.

The Panama delegation felt that it would be unthinkable if a human right as elementary as the right to education were not included in the Declaration. Mr. de Quijano pointed out that the constitutions of forty countries proclaimed the principle of free and compulsory education. In those countries, everyone without any distinction whatsoever had the right to primary education. Certain countries, including Panama, extended that right to secondary and even to higher education, in the sense that both those stages of education were free.

The representative of Panama drew the Commission's attention to the fact that article 12 of the Declaration on Human Rights adopted at the Inter-American Conference at Bogota established the right to education for everyone. In the opinion of the Panama delegation, that fact was a weighty argument in favour of proclaiming the same right in the International Declaration on Human Rights.

/Mr. de Quijano

Mr. de Quijano agreed that the text adopted at the Commission's second session was drafted in terms which were rather too broad, but he thought that it could easily be re-drafted in a more concise form without affecting the basic principle involved. It was, for instance, unnecessary to include provisions regarding the manner in which the State should apply the principle of the right to education, as provisions dealing with the State's obligations were out of place in a Declaration designed to establish the rights of the individual. The principle itself, however, should be proclaimed with full force.

The Panama delegation had prepared the following draft article which it now submitted to the Commission as a substitute for articles 27 and 28:

"Everyone has the right to education and to free primary schooling. Education shall be inspired by the principles of human freedom, morality and solidarity. It shall be accorded to everyone without distinction as to sex, race, language, religion or political opinion and shall promote the spiritual, intellectual and physical development of the people."

Mr. JOCKEL (Australia) stated that his delegation supported the alternative version of article 27 submitted by the United States delegation. He suggested, however, that the word "fundamental" should be replaced by "elementary".

Speaking as the representative of the United States of America, the CHAIRMAN agreed to that amendment.

Mr. LEBAR (UNESCO) remarked that it was hardly necessary to stress UNESCO's interest in the work of the Commission on Human Rights.

After a war in which the ~~most fundamental~~ human rights had been trodden in the dust, UNESCO felt that it ~~was~~ extremely important once again to proclaim those rights firmly and clearly in a document of solemn significance such as the International Declaration on Human Rights.

Ignorance and illiteracy which, unfortunately, still prevailed in some parts of the world, were among the principal obstacles to international understanding. For that reason UNESCO was devoting a considerable part of its activities to the work of ensuring the necessary minimum of education to all the peoples of the world. It was also trying to contribute towards better international understanding by carrying out a series of investigations of factors which could improve or hinder such understanding.

Mr. Lebar also pointed out that his organization was considering with the closest attention the Economic and Social Council's resolution on UNESCO's contribution to the struggle against discrimination and for the protection of minorities.

Mr. Lebar thought that the Declaration on Human Rights would give valuable aid to UNESCO's work by proclaiming the right to education and culture as one of the fundamental rights; it would thus provide a common ground for understanding among all men of good will.

/As regards

As regards articles 27 and 28 which were now under discussion, Mr. Lebar recalled that it had often been stated in the course of the Commission's debates that the Declaration should, as it were, place on record the general trend of world opinion with regard to certain principles at the time when the Declaration was issued. An article drafted in the terms proposed by the Indian and United Kingdom delegations, which merely established the right to education without specifying the right to different stages of education and higher education in particular, would therefore, not fully correspond to the Declaration's aims.

The adoption of that text would automatically involve the deletion of article 28. Mr. Lebar warned the Commission of the danger of such a step. In that connection, he cited the example of Germany where, under the Hitler regime, education had been admirably organized but had, nevertheless, produced disastrous results. It was absolutely necessary to make it clear that education to which everyone was entitled should strengthen respect for the rights set forth in the Declaration and combat the spirit of intolerance. The text proposed by the representative of Panama fulfilled that purpose.

Mr. WILSON (United Kingdom) stated that with the consent of the Indian delegation he would be prepared to withdraw the India-United Kingdom draft text and to support the alternative version submitted by the United States representative.

Mrs. MEHTA (India) agreed to withdraw the India-United Kingdom text but explained that her delegation had considered it unnecessary to specify the different kinds of education to which everyone was entitled, since that question was within the competence of UNESCO.

She added that she agreed to the United States text but would insist on the word "fundamental", which conveyed more clearly than "elementary" the conception of basic education which was the right of everyone.

/The CHAIRMAN

The CHAIRMAN invited the representative of the World Jewish Congress to expound his organization's views on articles 27 and 28 of the Declaration.

Mr. BIENENFELD (World Jewish Congress) recalled the circumstances in which the Commission had adopted article 28 at its second session in Geneva. As the result of interventions on the part of the World Jewish Congress and certain other organizations, the Commission had recognized that a Declaration which failed to indicate the spirit in which everyone was to be educated would not fulfil its purpose, and had agreed to devote a separate article - article 28 - to that question.

As the representative of UNESCO had pointed out, education in Germany and other fascist countries had been carried out in compliance with the principle of the right of education for everyone; yet the doctrines on which that education had been founded had led to two world wars. If the Declaration failed to define the spirit in which future generations were to be educated, it would lose its value as a guide for humanity.

The Declaration was not merely an appeal to the State; it was an appeal also to parents, teachers and educators. It was necessary to stress the importance of the article devoted to the spirit of education, which was possibly greater than that of all the other articles of the Declaration.

Mr. Bienenfeld stated that while the last part of article 27 was a repetition and might be deleted, article 28 should be retained in view of the fact that its provisions did not appear in any other section of the Declaration.

Stating that at its last session UNESCO had adopted the entire text of article 28 as a basis for its efforts in Germany and in all other countries where it was necessary to work a change in the spirit of education, Mr. Bienenfeld appealed to the Commission to retain article 28 in the Declaration.

/Mr. LOUTFI

Mr. LOUTFI (Egypt) stated that his delegation would support the text proposed by the United States delegation, as it contained all the elements of the text of article 27 as adopted at the second session of the Commission, except the provision against discrimination. The Egyptian delegation did not, however, think that such a provision was necessary since it appeared more than once in other parts of the Declaration and particularly in article 3.

As regards article 28, Mr. Loutfi thought that some of the ideas contained in it might be included in the Preamble to the Declaration.

Mr. MALIK (Lebanon), supported Mr. Bienenfeld's remarks regarding the importance of article 28. The human being was, by definition, a creature gifted with the power of reason, and the study of the ways in which that power could be developed was the Commission's concern. It was not enough to say that everyone had the right to education; it was necessary to specify the nature of such education. That was the only possible guarantee that future generations would not be educated in a spirit contrary to the aims of the United Nations as defined in the Preamble to the Charter.

In connexion with the part played by the family in the education of children, Mr. Malik stressed the need to exclude the possibility of situations in which dictators had the power to prevent parents from educating their children as they wished. Control of education could not be left entirely to the discretion of the State; parents should be allowed the freedom to determine the spirit in which they wished their children to be brought up.

The Lebanese delegation would support the text of article 27 as proposed by the United States delegation. It did not think, however, that the United States text was sufficiently comprehensive. The Commission was in duty bound to guard against the possibility that the education

/of future

of future generations could again be poisoned by doctrines opposed to the letter and the spirit of the Declaration. In that respect, the text proposed by the Panama delegation seemed entirely satisfactory.

Mr. CASSIN (France) was inclined to agree in substance with the version of article 27 proposed by the United States delegation. However, he thought that it should be redrafted and that article 27 should confine itself to stating the right to education and the principle that elementary education was free and compulsory. The French delegation considered it unnecessary to repeat in article 27 that higher education would be accessible to everyone, without discrimination; on the other hand, it hoped that the text which it had proposed for adoption and which was intended to protect the economic, social and cultural rights of man would make it unnecessary for the Commission to insert the words "as can be provided by the State or community" in article 27.

Mr. Cassin suggested the following text for article 27: "Everyone has the right to education. Fundamental education shall be free and compulsory."

Mr. Cassin said that his delegation could not agree to the deletion of article 28; moreover it felt that it should be amended only after thorough study. Article 28 had given rise to long and earnest discussion in Geneva and the draft adopted there reconciled two trends of thought on the subject, one favouring the right of the State to determine the system of education and the other favouring the right of the family. At that time, the Commission had felt that, in the interest of the child and of mankind in general, the Declaration should not set forth directives regarding the system of education, but should, however indicate the factors which would favour the development of human personality. Consequently, the text adopted in Geneva contained no allusion to the State and to the family. The version of the article proposed by the French delegation was a drafting amendment

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in the interest of greater clarity and it followed the Geneva text very closely. Mr. Cassin asked the Commission to retain article 28 as drafted by his delegation.

The CHAIRMAN asked the representative of the International Union of Catholic Women's Leagues to express the views of her organization on the articles under discussion.

Miss SCHAEFER (International Union of Catholic Women's Leagues) also emphasized the importance of articles 27 and 28, declaring that the spirit and aims of education should be made clear.

She observed, however, that those articles failed to mention the fundamental right and responsibility incumbent upon parents to educate their children as they saw fit. If that right were not stated in the Declaration, there might very well be a recurrence of situations such as that which prevailed in Germany under Hitler. The sentence: "Elementary education is free and compulsory" might be interpreted to mean that if the State provided free education, it was entirely free to determine the system of education. It would be better to say: "The State shall maintain adequate and free facilities for education."

Mr. CHANG (China) proposed the adoption of the following text:

"1. Everyone has the right to education, including free fundamental education and equal access on the basis of merit to higher education.

"2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms."

Mr. Chang pointed out that the first paragraph of that single article retained the two ideas contained in the joint United Kingdom-India text, while the second paragraph set forth, in condensed form, the substance of



article 28, the importance of which the Chinese delegation had stressed time and again.

In reply to a question from the representative of the USSR, the CHAIRMAN stated that it was the understanding of the United States delegation that the new text suggested for article 27 was intended to replace articles 27 and 28 of the text adopted at the Commission's second session in Geneva.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) pointed out that the phrase "on the basis of merit" was vague and rather ambiguous. He, personally, was opposed to any statement of a restrictive nature. In the Ukrainian Soviet Socialist Republic, everyone had a right not only to elementary education, but equally to higher education; the only qualification required of the student was the desire to educate himself. The delegation of the Ukrainian Soviet Socialist Republic could not accept any restriction of the aspirations to higher education.

Mr. Klekovkin did not understand why articles 27 and 28 should be combined in a single article which failed to mention the spirit in which education should be given. In connection with the articles regarding the right to work, the Commission had recognized the need to enter into matters of detail; it likewise appeared necessary to be more precise in defining the right to education.

The text adopted at the Commission's second session in Geneva and the draft suggested by the French delegation contained the essential factors upon which the concept of free education in modern democratic society should be based. Those texts were defective neither in form nor substance and nothing justified the deletion of article 28, which had been approved unanimously in Geneva. The Commission should decide whether to combine the ideas expressed in articles 27 and 28 in a single article, but it should not sacrifice any of these basic ideas.

~~/Speaking as~~

Speaking as the representative of the United States, the CHAIRMAN observed that access to higher education in the countries of the USSR was subject to the same conditions as those prevailing in the United States: entrance examinations had to be passed. The selection of persons for admission to advanced study was made on that basis. Therefore, the reservation contained in the United States draft simply laid down a principle which had already been recognized.

The Chairman then announced that a drafting sub-committee would be asked to submit suggestions for redrafting articles 27 and 28. It would be composed of the representatives of China, France, Lebanon, Panama, the United Kingdom, the Union of Soviet Socialist Republics and the United States.

The meeting rose at 1.15 p.m.