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ORIGINAL: FRENCHCOMMISSION ON HUMAN RIGHTSSECOND SESSION

WORKING GROUP ON CONVENTION ON HUMAN RIGHTS

SUMMARY RECORD OF THE FIRST MEETING

Held at the Palais des Nations, Geneva,
on Friday, 5 December 1947, at 11.50 a.m.

Present:

Chairman: Lord Dukeston (United Kingdom)

Rapporteur: Dr. Charles Malik (Lebanon)

Members: Dr. Wu, Nan-Ju (China)*

Mr. Omar Loutfi (Egypt)

Dr. V. Ribnikar (Yugoslavia)

Absent: (Chile)

Secretariat: Professor Humphrey

Observers: Mr. H. Plaine (United States of America)

Non-Governmental
Organizations
Category A:Miss Toni Sender (American Federation of
Labor)Mr. Serrarens (International Federation
of Christian Trade Unions)Mr. Robinet de Cléry (Inter-Parliamentary
Union)Non-Governmental
Organizations
Category B:

Dr. Bienenfeld (World Jewish Congress)

Mr. Duchosal (International Red Cross
Committee)Miss de Romer (International Union of
Catholic Women's Leagues)

* Dr. Wu, Nan-Ju sat in the Committee as a personal
representative of Dr. C.H. Wu, the alternate of
Dr. P.C. Chang.

Professor (HUMPHREY (Secretariat) temporarily occupying the Chair requested the members of the Working Group to elect a Chairman. He pointed out that under the Rules of Procedure, elections should be made by a secret vote. However, under Rule 61 of the Commission's Rules of Procedure it was permissible temporarily to suspend any rule; he accordingly asked the members whether they wished to waive the rule requiring a secret vote.

Dr. MALIK (Lebanon) asked whether the Working Group could not proceed to nominate candidates.

Dr. RIBNIKAR (Yugoslavia) seconded this proposal and proposed Lord Dukeston (United Kingdom) as Chairman and Dr. Malik as Rapporteur.

Dr. WU, Nan-Ju (China) and Mr. LOUFTI (Egypt) seconded these nominations.

Professor HUMPHREY (Secretariat), in the absence of any other candidates and as there were no objections, requested the representatives of the United Kingdom and the Lebanon to take up their functions.

The CHAIRMAN called on the members to examine the broad outline of a Convention on Human Rights. A necessary preliminary was to consider the procedure to be adopted. The Commission, he recalled, had thought it better to take Annex C of document E/CN.4/21 as the basic document. The advantage of this procedure was that the Working Group would be able to examine prepared formulas. He suggested that this document might be discussed article by article, members being free to make any alterations they considered appropriate. He also pointed out that the United States Delegation had submitted a draft Convention (document E/CN.4/37) to the Commission. It would, however, be difficult to study these two documents side by side. He asked whether the members would prefer first of all to have a general discussion.

Mr. LOUTFI (Egypt) felt that a practical course would be to take the text prepared by the Drafting Committee as a basis for discussion, whilst the United States draft might provide material for amendments.

The CHAIRMAN agreed that this procedure would simplify the Group's task. He pointed out, however, that the draft submitted by the United States was not the only source of possible amendments. Any other text might be submitted.

Dr. MALIK (Lebanon) concurred in this view and stated that the draft submitted by the United Kingdom Delegation had for the most part been embodied in the text reproduced in Annex G; other portions of this draft could, however, be taken into consideration. In view of the importance of the United States draft, he was sorry the United States Delegation was not represented on the Working Group. He suggested that the Chairman should invite the delegation to designate an official observer, who could provide the Group with explanations regarding the United States draft. That observer would not have the right to vote.

Dr. WU, Nan-Ju (China) seconded that proposal.

The CHAIRMAN, noting the unanimous agreement on that proposal, invited Mr. Plaine (United States of America), who was present at the meeting, to take his place among the members.

Mr. PLAINE (United States of America) declared his readiness to take part in the Group's work, subject to such observations as his country's representative might subsequently have to make.

Mr. RIBNIKAR (Yugoslavia) agreed to discuss the text of Annex G Article by Article, but hoped that members would have an opportunity of expressing their opinions on the draft as a whole, either before or after the examination of the Articles.

Dr. WU, Nan-Ju (China) thought that Mr. Malik's text was superfluous since, as the mother was protected, the child would also be protected from its conception to its birth. As regards abortions, it would be sufficient to insert the words "including unlawful abortion" after the words "physical mutilation" in Article 2, paragraph (b).

Mr. PLAINE (United States of America), replying to Dr. Wu, observed that the majority of laws punished cases of abortion, and suggested that the Group hold over this problem and give it further serious thought.

The CHAIRMAN agreed to that proposal, and suggested that the question be re-examined when Article 2, paragraph (b) came up for discussion.

Mr. LOUTFI (Egypt) thought that a way out of the difficulty would be to add the words "in conformity with the laws in force" to the text of Article 1. He considered that, as this was a general Article, there was no reason why points raised during the discussion should not be gone into more fully when later Articles were reached.

The CHAIRMAN pointed out that the present text gave rise to legal and drafting difficulties. It would seem to limit the effect of the law at the time the Convention came into force and not at the time the act was committed.

Dr. BIENENFELD (World Jewish Congress) recalled that all the Hitlerian laws had been in conformity with the Constitution of the Third Reich, though not with the principles of human rights nor with the United Nations Charter. It should be expressly stated that national laws should conform to the purposes and principles of the Charter. Therefore, a distinction should be drawn between national laws in force and the general law of human rights. He proposed that the text of Article 1 be amended, the

words "in conformity with the general principles of criminal law recognized by civilized nations" being added at the end; such a clause would be in conformity with Article 38, paragraph (c) of the Statute of the International Court of Justice.

Mr. LOUTFI (Egypt) noting the difficulties that had arisen as the outcome of the suggestion he had made with a view to establishing a general principle, withdrew his proposal, which could be re-examined later.

Mr. PLAINE (United States of America) considered that the new idea suggested by the observer of the World Jewish Congress was worthy of consideration.

The CHAIRMAN also thought that Article 1 might be amended by Mr. Bienenfeld's proposal.

Dr. MALIK (Lebanon) noted that the observers representing non-governmental organizations outnumbered the members of the Group itself. He admitted that such observers often made valuable contributions to the deliberations of the various organs of the United Nations, but he was under the impression that their participation was governed by the Rules of Procedure of the Economic and Social Council. Those Rules did not permit them to take part in the discussion, but only to make a statement with the Committee's approval. If an observer wished to make a definite suggestion or a textual proposal, he was entitled to do so through the intermediary of a member.

Professor HUMPHREY (Secretariat) explained the status of observers delegated by inter-governmental organizations and observers representing non-governmental organizations.

Dr. WU, Nan-Ju (China) feared the proposed amendment to Article 1 might restrict the legislative powers of sovereign States. He thought further that the present text was superfluous, since, if national legislation conformed to the text of Article 2, it would thereby conform to the general principles of law recognized by civilized nations.

The meeting rose at 1.10 p.m.