

~~MASTER FILE~~

COMMISSION ON HUMAN RIGHTS

DRAFTING COMMITTEE

Second Session

SUMMARY RECORD OF THE THIRTY-FIFTH MEETING

Held at Lake Success, New York,
on Monday, 17 May 1948 at 11 a.m.

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

Vice-Chairman and
Rapporteur Mr. Charles MALIK

Present:

Mr. E. J. R. HEYWARD	Australia
Mr. H. SANTA CRUZ	Chile
Mr. T. Y. WU	China
Mr. R. CASSIN	France
Mr. A. P. PAVLOV	Union of Soviet Socialist Republics
Mr. G. WILSON	United Kingdom

Representative of specialized agency:

Mr. Rene LEBAR	United Nations Educational, Scientific and Cultural Organization
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Consultant of non-governmental organization:

Miss T. SENDER	American Federation of Labor
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Secretariat:

Mr. J. P. HUMPHREY
Mr. E. LAWSON

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The CHAIRMAN informed the Committee of the death of Lord Dukeston, representative of the United Kingdom on the Human Rights Commission, and moved that a minute of silence should be observed in honour of his memory. The Committee instructed the United Nations Secretariat to convey by telegram its condolences to the family of the deceased.

EXAMINATION OF ARTICLE 4 OF THE INTERNATIONAL DECLARATION ON HUMAN RIGHTS (documents E/CN.4/85, E/CN.4/82/Add.8, E/CN.4/82/Add.9, E/CN.4/AC.1/18, E/CN.4/AC.1/20)

The CHAIRMAN proposed the appointment of a sub-committee to draft the articles accepted in principle by the Drafting Committee.

Mr. CASSIN (France) thought that the Drafting Committee's most essential task was to shorten and clarify the Draft Declaration. He thought that article 4 should be merged with article 8 on slavery, to read as follows:

"Everyone has the right to life, to liberty and security of person.

"Slavery, in all its forms, being inconsistent with the dignity of man, shall be prohibited by law."

Mr. Cassin believed that the articles following article 4 should constitute a sort of explanation of the main ideas embodied in that article.

Mr. PAVLOV (Union of Soviet Socialist Republics) observed that article 4 did not take into account the fact that millions of people were dying of hunger, sickness and other scourges. The Committee should express its desire to make the right to life fully effective. Mr. Pavlov added that he would be prepared to support the French proposal to incorporate the article on slavery in article 4 on condition that slave-trade were condemned in all its forms.

/Mr. MALIK

Mr. MALIK (Lebanon) supported the United States proposal suggesting that fundamental rights should be grouped together. He was in favour of shortening the declaration provided that the substance of each article was left intact.

Mr. Malik pointed out that the Lebanese proposal submitted in Geneva corresponded to the suggestion made by the Netherlands and Chilean delegations concerning the need to incorporate the principle of physical integrity in article 4.

Mr. SANTA CRUZ (Chile) thought that the Declaration should be as short as possible. The Committee should, however, add some lines of explanation to the provision for the right to life. Mr. Santa Cruz wished the Committee to study the addition to article 4 proposed by the Chilean delegation in Geneva. The addition was as follows:

"Unborn children, incurables, the feeble-minded and the insane have the right to life.

"Everyone has the right to enjoy conditions of life compatible with human dignity and the normal development of his or her personality.

"Persons incapable of satisfying their own needs have the right to maintenance and support."

Miss SENDER (American Federation of Labor) remarked that the article on slavery made no reference to forced labour. She proposed that a condemnation of forced labour should be embodied in article 4.

Mr. WU (China) was in favour of the appointment of a sub-committee entrusted with the task of condensing the Declaration. He thought that article 4 should be as short and as simple as possible.

/The CHAIRMAN

The CHAIRMAN opened the discussion on the substance of article 4.

Mr. MALIK (Lebanon) proposed the following version of article 4:

"Everyone has the right to life and to physical integrity from the moment of conception, regardless of his or her physical or mental condition. Everyone has the right to liberty and personal safety."

Mr. SANTA CRUZ (Chile) supported the principle upheld by the Lebanese representative, but wished article 4 to include the principle of security.

Mr. CASSIN (France) remarked that the conception of "personal safety" was not identical with that of "personal liberty".

Mr. Cassin expressed his readiness to accept the Netherlands proposal to include the words "physical integrity" in article 4. He agreed with the substance of the Lebanese and Chilean proposals, but thought that the Declaration should only contain ideas acceptable to all the members.

Mr. SANTA CRUZ (Chile) stated that in view of the fact that the International Covenant contained no articles dealing with the principle of security, he was obliged to insist on its inclusion in the Declaration.

The CHAIRMAN, speaking as the representative of the United States of America, thought that the Declaration should be as short as possible. The United States delegation would agree to the inclusion of the words "physical integrity" in article 4, but would vote against all the other proposals.

/The CHAIRMAN

The CHAIRMAN asked for a vote on the question whether the words "from the moment of conception" should be added at the end of the sentence reading "Everyone has the right to life, to physical integrity, etc."

Mr. PAVLOV (Union of Soviet Socialist Republics) remarked that laws against abortion did not exist in all countries. He thought, on the other hand, that article 4 should contain a pronouncement against unemployment, famine, sickness and fascism, scourges which threatened millions of lives.

Mr. MALIK (Lebanon) asked that reference should be made in the summary record of the meeting to the statements made by the representatives of China, the Union of Soviet Socialist Republics) and the United Kingdom in connection with article 4. Mr. Malik believed that while the delegations of those three countries wished to omit the phrase "from the moment of conception" in the interests of brevity, they considered that idea to be implied in the general terms of article 4.

Mr. WU (China) stressed that the wording of article 4 did not imply but actually contained the idea expressed by the Lebanese representative.

Mr. WILSON (United Kingdom) thought that the wording of article 4 could be understood to contain that idea but did not necessarily do so.

The CHAIRMAN, speaking as the representative of the United States, stated that the terms of article 4 were sufficiently broad to comprise

/certain ideas

certain ideas which a country might wish to adopt as general principles. She believed a concise and general wording to be the most desirable.

The proposal to include the words "from the moment of conception" was rejected by six votes to two.

The proposal to include the words "regardless of his or her physical or mental condition" was rejected by six votes to two.

Mr. SANTA CRUZ (Chile) pointed out that paragraphs 2 and 3 of his proposal had not yet been examined by the Committee.

Mr. MALIK (Lebanon) drew the Committee's attention to the fact that articles 25, 26 and 27 of the Declaration dealt with the economic rights of the individual.

Mr. SANTA CRUZ (Chile) stated that the principle of the security of the individual should find expression in the definition of the right to life even if it already occurred in other articles of the Declaration.

Mr. CASSIN (France) shared the view expressed by the Lebanese representative. He thought that articles 25, 26 and 27 could be drafted differently, but that the idea of security should not be expressed in article 4.

The inclusion of paragraphs 2 and 3 of the Chilean proposal in article 4 was rejected by three votes to one, with four abstentions.

Mr. HEYWARD (Australia) thought that the meaning of the words "physical integrity" was not sufficiently clear.

Mr. WU (China) was in favour of the words "personal safety".

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that the words "personal safety" were more explicit and, therefore, more appropriate than the words "physical integrity".

Mr. MALIK (Lebanon) pointed out that personal safety and physical integrity were two different conceptions. Article 4 should be worded so as to include both ideas.

Mr. CASSIN (France) thought that "personal safety" meant the security under which an individual could live. He saw no objection to the inclusion of the words "physical integrity" in article 4. He pointed out that article 4 was a chapter heading and that the following articles were governed by it.

Mr. SANTA CRUZ (Chile) was in favour of the insertion of the words "physical integrity".

Miss SENDER (American Federation of Labor) proposed replacing the text of article 4 by that adopted at the Bogota Conference.

Mr. WILSON (United Kingdom) pointed out that the ideas formulated at the Bogota Conference were already contained in article 2 which had not yet come under discussion. He thought, therefore, that it was preferable to retain the text of article 4 as adopted in Geneva.

Mr. MALIK (Lebanon) proposed adding the words "physical integrity" to the text of article 4.

The Committee decided against the inclusion of the words "physical integrity" in article 4 by four votes to four.

Article 4 as drafted at the Geneva conference was adopted by seven votes, with one abstention.

Mr. PAVLOV (Union of Soviet Socialist Republics) wished to point out that the Russian text of article 4 seemed to be more broadly framed than the French and English texts.

Examination of Article 5

Mr. CASSIN (France) stated that he was prepared to accept article 5 as it stood and would be unable to vote for the Mexican or Brazilian proposals (the latter affecting only the English text of the article).

Mr. WILSON (United Kingdom) proposed the deletion of article 5, which he described as nothing but a list of methods for the preservation of liberty already contained in the International Covenant.

Mr. WU (China) was in favour of the deletion of article 5.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that the relationship between the Declaration and the Covenant should be clearly laid down. His opinion was that each article of the Covenant should have a counterpart in the Declaration. He thought that article 5 should be supplemented by paragraph 5 of article 9 of the Pact, which read as follows:

"Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty." He considered that article 5 should be retained in the Declaration so as it gave it additional force.

/The CHAIRMAN

The CHAIRMAN, speaking as the representative of the United States, reserved her position with regard to the deletion of article 5. She felt that any decision on that point would depend on the final form which the Committee agreed to give to the Declaration.

Mrs. Roosevelt pointed out that if article 5 were to be retained, two amendments to its text were proposed in the recommendations submitted by the United States (document CN.4/AC.1/20). She thought that the drafting of that article should be entrusted to the Committee.

Mr. SANTA CRUZ (Chile) stated that if article 5 were retained, he would propose to replace its present text by that adopted at the Bogota Conference.

Mr. HEYWARD (Australia) suggested that the Declaration should be submitted to the Human Rights Commission in two versions of different length. He did not think that the Geneva Declaration could be shortened without detriment to its substance. He proposed, therefore, that each article should be examined with a view to its forming part of a long Declaration, but that a short Declaration should be drafted at the same time.

He stressed that in drafting the Declaration it was essential to preserve its declaratory form.

The Committee decided to retain article 5 by five votes to two, with one abstention.

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that the amendments he proposed issued directly from the terms of article 5.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) supported the USSR proposal. He pointed out that the wording proposed by the French representative was practically identical with the text adopted at the Bogota Conference.

Mr. CASSIN (France) did not think that the text of the Declaration should make provision for measures of implementation if the latter were not drafted concisely. He pointed out that France had voted in favour of the USSR amendment to article 9 of the Covenant, but stated that he would vote against the inclusion of the latter in the Declaration.

Mr. WILSON (United Kingdom) shared the views of Mr. Cassin.

Mr. SANTA CRUZ (Chile) pointed out that article 5 as adopted at the Bogota Conference proclaimed merely that every one had the right to humane treatment while under preventive arrest.

The Committee decided against the inclusion of the USSR amendment in article 5 by five votes to three.

Mr. SANTA CRUZ (Chile) proposed that the phrase "...and the right to humane treatment while under detention" should be added at the end of article 5.

The CHAIRMAN remarked that article 7 covered that particular point. She suggested that a sub-committee should draft articles 5, 6, and 7, keeping in view the opinions expressed at the Bogota Conference. She appointed a sub-committee composed of the representatives of Chile, the Union of Soviet Socialist Republics, China and the United States of America.

Mr. WILSON (United Kingdom) wished the Sub-Committee also to bear in mind the fact that article 9 of the Covenant contained the general principle which article 5 of the Declaration was to embody. He recalled that article 13 of the Covenant had to do with the same principle.

The meeting rose at 1.15 p.m.