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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SIXTIETH MEETING

Lake Success, New York  
Friday, 4 June 1948, at 3 p.m.

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

Rapporteur: Mr. Charles MALIK Lebanon

Members: Mr. HOOD Australia  
Mr. STEYAERT Belgium  
Mr. STEPANENKO Byelorussian Soviet Socialist Republic  
Mr. CHANG China  
Mr. LOUFI Egypt  
Mr. CASSIN France  
Mrs. MEHTA India  
Mr. de QUIJANO Panama  
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

Representatives of Specialized Agencies:

Mr. COX International Labour Organization  
Mr. LEBAR United Nations Educational, Scientific and Cultural Organization

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Observers from Inter-Governmental Organizations:

Mr. STONE	Preparatory Commission of the International Refugee Organization
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Consultants from Non-Governmental Organizations:

Miss SENDER	American Federation of Labor
Mr. VANISTENDAEL	International Federation of Christian Trade Unions
Miss STUART	World Federation of United Nations Associations
Mr. GOLDSMITH and Mr. LEWIN Mr. BROTMAN	Agudas Israel World Organization Co-ordinating Board of Jewish Organizations for Con- sultation with the Economic and Social Council of the United Nations
Miss STRAHLER	International Committee of the Red Cross
Miss SCHAEFER	International Union of Catholic Women's Leagues
Miss ROBB	Liaison Committee of Women's International Organizations

Secretariat:

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

CONTINUATION OF THE DISCUSSION OF ARTICLE 15 OF THE DRAFT DECLARATION  
ON HUMAN RIGHTS (documents E/CN.4/95, E/CN.4/99, E/CN.4/102)

Article 15 (continued)

Mr. CASSIN (France) pointed out that the Commission had adopted the Indian and United Kingdom amendment to article 15, but had not yet taken any decision on the text adopted during the session at Geneva, re-submitted by the Drafting Committee and taken up again in the French amendment, namely, the sentence: "Everyone has the right to a nationality." He did not wish to question the Commission's decision on the Indian and United Kingdom amendment, but thought that article 15 of the Drafting Committee's text should be put to the vote before the next article was discussed.

Mr. WILSON (United Kingdom), supported by Mr. LEBEAU (Belgium), explained that the Indian and United Kingdom amendment  
/was intended

was intended to replace the Drafting Committee's text. Consequently, he could see no need for a further vote.

The CHAIRMAN stated that the Indian and United Kingdom amendment had, in fact, been intended to replace article 15, so that the Commission had disposed of that article. However, if the French representative thought that, owing to a misunderstanding, the Commission had not taken a decision on part of the French amendment, he was entitled to propose formally that the sentence be inserted in the text adopted for article 15.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the procedure suggested by the Chairman might create a dangerous precedent. The Commission could not reconsider a decision that had already been voted on. But as there had been a misunderstanding and some members had voted for the United Kingdom amendment as an addition, while others thought it was intended to replace the Drafting Committee's text, he proposed that the Indian and United Kingdom amendment should be put to the vote again, as a substitute for the Drafting Committee's text. That was the only proper procedure, as there had been some confusion regarding the amendment.

Mr. MALIK (Lebanon)(Rapporteur) supported the French representative's view. From the point of view of procedure, the United Kingdom and Belgian representatives were right, but it would be regrettable if the Commission were prevented from expressing its opinion on a question of substance for purely procedural reasons. The Indian and United Kingdom amendment would not be incompatible with the text that the French representative wished to insert, since the one dealt with arbitrary deprivation of nationality

/and the

and the other with everyone's right to a nationality.

Mr. CHANG (China) did not oppose the French representative's request for a vote, but feared that the inclusion of the words he proposed would amount to a repetition.

Mrs. MEHTA (India) pointed out that declaration of the right to nationality had been intentionally omitted from the Indian and United Kingdom amendment. It was, in fact, difficult to decide whether that right was fundamental. For example, if a person fled from his country and sought asylum in another, thus losing his nationality, had he the right to claim the nationality of the country that sheltered him? That was a debatable point. She thought that the fundamental right was the right not to be deprived of nationality. She would therefore vote against the inclusion of the words proposed by the French representative.

Mr. CASSIN (France) recalled that the Commission had discussed certain parts of article 15 at the previous meeting, but had taken no decision on the article as a whole. It was for a vote on the article as a whole that he was asking. The French amendment had been put to the vote as presented in the Egyptian and Lebanese amendments; the points that seemed furthest from the original text had been dropped, but public opinion would not understand that no vote had been taken on the fundamental question, that of everyone's right to a nationality.

When the Indian and United Kingdom amendment was put to the vote, he had considered it as an addition and had not thought that it would prevent the Commission from taking a decision on another text. He therefore asked the Commission to vote on the Drafting Committee's text, which was also part of the French amendment and had not been voted on.

The CHAIRMAN decided that the Commission had before it part of the French amendment which had not yet been voted on, owing to a misunderstanding, and asked the Commission for a decision on that text.

Mr. PAVLOV (Union of Soviet Socialist Republics) contested the Chairman's ruling, which he thought procedurally incorrect. The Commission should take another vote on the Indian and United Kingdom amendment as an alternative to the Drafting Committee's text of the article.

The CHAIRMAN put her ruling to the vote.

The Chairman's ruling was accepted by 6 votes to 3, with 6 abstentions.

The CHAIRMAN put to the vote the proposal to include in article 15, as adopted by the Commission, the words: "Everyone has the right to a nationality."

The proposal was rejected by 6 votes to 5, with 4 abstentions.

#### Article 16

Mr. LEWIN (Agudas Israel World Organization) said that article 16, which was the foundation for religious freedom should include the word "religion", which was contained both in the Indian and United Kingdom representatives' amendments, and in the United States recommendations on that article.

The word "religion" appeared in the French Declaration on Rights of Man and of the Citizen of 1789, and in the American Bill of Rights of 1791. The words "Freedom of thought and conscience", which appeared in the Drafting Committee's text of Article 16, were assumed to cover freedom of religion, but in practice might lead to misunderstandings in certain countries.

He wished the word "religious" to be inserted in paragraph 2, either before the word "practice" or before the word "observance".

The United States recommendation regarding article 16 of the draft Declaration (document E/CN.4/AC.1/20) seemed to be the best text, except for the words "including the right, etc. ...", which might give the impression that certain rights had been omitted.

On the basis of that text, he suggested the following draft of article 16 as a whole:

"Everyone has the right to freedom of religion, conscience and belief, has the right, either alone or in community with other persons, in public or in private, to hold, change or manifest any belief and has the right to practice any form of religious worship and to teach and practice any form of observance."

The repeated use of the word "right" was intended to stress the cardinal importance of the right to hold or change beliefs, and the right to practice any form of worship and to teach and practice any observance. The words "of like mind" had been deleted as being superfluous. The other Jewish organizations in category B endorsed what he had just said.

The CHAIRMAN said the Commission could begin by voting on the Chinese amendment, which seemed to be the most far-reaching.

Mr. CHANG (China) pointed out that the Chinese amendment applied simultaneously to articles 16, 17, 18 and 19, and suggested that it should not be considered at present.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the USSR amendment was a compromise between the Chinese text, which was an over-simplification, and the Drafting Committee's text, which was too long. The USSR text stressed freedom of thought and freedom to practise religious observance, and emphasized the limitations

imposed by conformity of such practice to national laws and public morals. There were many superstitions that were incompatible with national laws or public morals, particularly with the moral education of youth, with health and with respect for others. The text was sufficient to defend freedom of conscience and belief, and also satisfied the demands of public morals.

Mr. LOUTFI (Egypt) wished to amend articles 16, 17, and 18 and 19. The limitations contained in article 2 of the Declaration were not sufficient in respect of these articles. He therefore proposed inserting, either at the end of article 19, or the beginning of article 16, the text of article 16 sub-paragraph 4 of the Covenant, namely:

"The above rights and freedoms shall be subject only to such limitations as are prescribed by law and are necessary to protect public order and health, morals and the fundamental rights and freedoms of others."

The amendment was prompted by uncertainty as to whether the Covenant would be ratified or not.

Mr. MALIK (Lebanon), Rapporteur understood the motives underlying the Egyptian amendment. But a limitative clause of that nature might distort the exact meaning intended in article 16. The article dealt with the rights and freedoms that were above the law and, as it were, outside it. A provision based on religion or morals could not be amended by the law. He would be opposed to such a formula, even in the Covenant. Moreover, the provisions of articles 2 and 3 of the Declaration answered the Egyptian representative's purpose. Consequently, he did not support the latter's proposal

/The CHAIRMAN

The CHAIRMAN and Mr. LOPEZ (Philippines) concurred in the views of the Lebanese representative.

Mr. FONTAINA (Uruguay) pointed out a procedural error. The Chinese amendment was not complementary, since it was meant to replace articles 16, 17, 18 and 19. The adjournment of its discussion was incorrect. The Egyptian amendment should be considered in connexion with article 19 and, if adopted, would then become retroactive and would apply to article 16, 17 and 18.



Mr. CASSIN (France) thought that the Egyptian amendment raised the question whether Article 2 had been well drafted. The facts showed that it was inadequate. If the Commission did not wish the same problem to arise in connection with every article, Article 2 would have to be given more force and clarity.

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that the shortcomings of Article 2 were becoming evident. It was, however, premature to discuss the Egyptian amendment. He suggested leaving the question open until after the consideration of all the articles of the Declaration had been completed, then returning to that proposal and perhaps summarizing those limitations in a general way in a single article. Had the draft Article 2 submitted by the USSR delegation at the Commission's second session, a draft which mentioned the demands of the laws of the democratic States, been adopted, many difficulties would have been avoided. It could not be said that the law of a democratic State contained abuses, since to suppose that the demands of the law of a democratic State could conceal abuses would be to fail in self-respect.

He proposed that the USSR amendment to Article 16, which mentioned the limitations desired by the Egyptian representative, be put to the vote.

The CHAIRMAN put to the vote the USSR amendment to Article 16.

The amendment was rejected by 10 votes to 5, with 1 abstention.

Mr. MALIK (Lebanon) (Rapporteur) submitted the following amendment to Article 16, as proposed by the Drafting Committee.

"Everyone has the right (is entitled) to freedom of religion, conscience and belief; this right includes freedom to change his religion or belief, and freedom, either alone or in community with other persons of like mind and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

/ His amendment

His amendment embodied all the essential elements of the original article; only the right to freedom of religion had been added. Apart from that, he had deleted the words "absolute and sacred right" and had merged the two original paragraphs into one.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the Lebanese amendment had made no allusion to "freedom of thought". Science had a right to protection on the same terms as religion. Out of respect for the heroes and martyrs of science, those words should not be deleted.

He preferred the Drafting Committee's text.

Mr. MALIK (Lebanon) (Rapporteur) replied that he had not mentioned freedom of thought simply because that right was provided for under Article 17. He was as anxious as the representative of the USSR to safeguard freedom of thought, and agreed to include it in his amendment.

Mr. CASSIN (France) wished the right to freedom of religion to be mentioned in the Drafting Committee's text, which he preferred to the Lebanese amendment. Moreover, he objected to the deletion of the reference to the right to freedom of thought.

The right to freedom of thought was a sacred and inviolable right. It was the basis and the origin of all other rights. Freedom of thought differed from freedom of expression in that the latter was subject to certain restrictions for the sake of public order. It might be asked why freedom of inner thought should have to be protected even before it was expressed. That was because the opposite of inner freedom of thought was the outward obligation to profess a belief which was not held. Freedom of thought thus required to be formally protected in view of the fact that it was possible to attach it indirectly. Hence the right to freedom of thought, which was the basis of other liberties, should be included in the article.

/ He would

He would prefer an article divided into two paragraphs, like that of the Drafting Committee.

Speaking of the comments made by the representative of the Agudas Israel Organization, he thought that the English text of Article 16, which the latter had found lacking in clarity, protected all essential religious freedoms and needed no amplification.

Mr. MALIK (Lebanon), (Rapporteur), agreed to insert in his text a mention of the right to freedom of thought, and to divide his amendment into two paragraphs as follows:

"Everyone has the right to freedom of religion, conscience, belief and thought, including freedom to change his religion or belief.

"Everyone has the right to freedom, either alone or in community with other persons of like mind, and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

Mr. FONTAINE (Uruguay) pointed out that the freedom to change one's religion or belief was covered by freedom of religion and belief. That part of the article was therefore redundant.

Moreover, the Lebanese amendment as redrafted coincided with the Drafting Committee's original text. The only real amendment to Article 16 was the one submitted by India and the United Kingdom.

Mr. CHANG (China) preferred the latter amendment. Article 16 should treat only of the protection of freedom of religion and belief; the protection of freedom of thought was dealt with in Articles 17 and 18.

He suggested replacing "either alone or in community with other persons of like mind" by "with others".

He would vote for the Indian and United Kingdom amendment.

/ Mr. MALIK

Mr. MALIK (Lebanon) (Rapporteur) said that he had divided his amendment into two paragraphs so as to meet the wishes of the French representative. If the redrafting met with any objection, he would reserve the right to revert to his original text.

The CHAIRMAN proposed to take a vote, first on the first paragraph of the Lebanese amendment, then on the Indian and United Kingdom amendment, and finally on the second paragraph of the Lebanese amendment.

Mr. WILSON (United Kingdom) said that freedom of religion and belief implied the freedom to practise one's religion or belief. There was, therefore, no need to mention it specifically.

Moreover, if the idea of freedom of thought were introduced into the first part of the sentence, it would also have to be included in the second part so that it would read: "including freedom to change his religion, belief or thought" which would be rather out of place in a Declaration on Human Rights.

The article dealt essentially with freedom of religion, and it would be better not to introduce any other consideration.

Mr. PAVLOV (Union of Soviet Socialist Republics) supported the French representative's arguments regarding freedom of thought. That freedom should, **moreover**, be mentioned before the other freedoms. The United Kingdom representative's view that the article was a purely religious one was quite unjustified. Atheists also had the right to express their opinions and to have their freedom of thought protected.

Mr. FONTAINA (Uruguay) said that freedom of thought was the fundamental freedom, and that freedom of religion and belief derived therefrom.

He therefore suggested reversing the order of Articles 16 and 17, so that freedom of thought should be guaranteed by an article preceding the one on freedom of religion.

/ The CHAIRMAN

The CHAIRMAN pointed out that Article 17 covered more than freedom of thought. She suggested taking a vote on whether it was desirable to deal with freedom of thought in a separate article or whether it would be sufficient to mention it in Article 16.

Mr. CASSIN (France) said that according to the European conception, freedom of thought had a metaphysical significance. It was an unconditional right which could not be subjected to any restrictions of a public nature. The other rights, however important they might be, were subject to certain limitations. There was a great difference in degree between freedom of thought and freedom of opinion. It would, therefore, be sufficient to mention the right to freedom of thought first among the freedoms enumerated in Article 16; it was unnecessary to mention it again in Article 17.

Mr. LOPEZ (Philippines) was in favour of mentioning the right to freedom of thought in Article 16, and not in Article 17, which was intended to guarantee freedom of expression.

Moreover, since Article 16 was intended essentially to protect religious freedom, the logical order in which the freedoms should be unenumerated in that article were, in his opinion, "freedom of religion, of conscience, of thought and of belief," freedom of thought thus following freedom of religion and conscience.

Mr. CHANG (China) agreed that according to European ideas freedom of thought was the basis of freedom of belief. Although belief implied thought, freedom of thought had in the course of history actually preceded freedom of belief. But the right to those freedoms implied the right to change them. He therefore suggested simply saying: "the right to freedom of thought, religion and belief."

/ Mr. WILSON

Mr. WILSON (United Kingdom) thought that metaphysical considerations were being pushed too far. Article 17 contained elements without which freedom of thought could not exist. It would therefore be better to be satisfied with the original Articles 16 and 17, which were admirably drafted and satisfied all practical requirements.

The CHAIRMAN appointed a sub-committee, composed of the representatives of France, Lebanon, the United Kingdom and Uruguay, to reconsider the drafting of Articles 16 and 17 in the light of the views expressed during the meeting.

The meeting rose at 5.30 p.m.