

COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SEVENTY-SECOND MEETING

Hold at Lake Success, New York
on Monday, 14 June 1948, at 2.30 p. m.

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

Reporteur: Mr. MALIK Lebanon

Members: Mr. HOOD Australia
Mr. STEYARRT Belgium
Mr. STEL NENKO Byelorussian Soviet Socialist Republic
Mr. LARRAIN Chile
Mr. CHANG China
Mr. LOUFI Egypt
Mr. CASSIN Franco
Mrs. MEHTA India
Mr. QUIJANO Panama
Mr. LOPEZ 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

Representatives of Specialized Agencies:
Mr. METALL International Labour Organization (IL
Mr. LEBAR United Nations Educational, Scientific and Cultural Organization (UNESCO)
Mr. STONE Preparatory Commission for the International Refugee Organization

Consultants from Non-Governmental Organizations:
Miss SENDER American Federation of Labor
Mr. VANISTENDAEL International Federation of Christian Trade Unions

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Consultants from Non-Governmental Organizations (Continued)

Mrs. DRENNAN	Catholic International Union for Social Services
Mr. NOLDE	Commission of the Churches on International Affairs
Mr. PRENTICE Jr.	International Union of Catholic Women's Leagues
Miss SCHAEFFER	Committee of Women's International Organizations
Dr. ROBB	World Jewish Congress
Dr. BIENENFELD	International Alliance of Women
Mrs. BAKER VANDENBERG	

Secretariat:

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

CONTINUATION OF THE DISCUSSION OF THE DRAFT DECLARATION OF HUMAN RIGHTS
(Document E/CN.4/95)

The CHAIRMAN read document E/CN.4/120, containing the report of the drafting sub-committee on two suggested additional articles. The first had been unanimously accepted by the sub-committee; the second had been suggested by the French representative, in addition to the first, as an introduction to articles on economic and social rights.

The Chairman remarked that, at the request of the United Kingdom representative, who believed that the first article obviated the need for the second, the two would be discussed in relation to each other. She called for comments on the proposed articles.

Mr. HOOD (Australia) called the attention of the United Kingdom representative to a basic difference between the articles contained in document E/CN.4/120 and the articles previously adopted. The latter, for the most part, dealt with the natural rights of individual human beings; the former viewed human beings as members of organized society. Mr. Hood agreed with the statement previously made by the Lebanese representative that the difference should be noted in the Declaration.

As the article accepted by the sub-committee appeared somewhat general, the Australian delegation would support the idea expressed in the French

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proposal, as well as the Egyptian amendment, suggested at the previous meeting, to the effect that States should take such action as was within the limits of their possibilities. On the other hand, the words "should be made possible" in the French proposal could with advantage be replaced by "should be ensured"; the article would be strengthened thereby.

Mr. VILFAN (Yugoslavia) agreed that the Declaration should contain an article mentioning implementation. He felt, like the United Kingdom representative, that no distinction should be made between social and economic rights and civil rights. He consequently moved, as a substitute for the two suggested articles, a portion of the amendment proposed earlier by the USSR representative to articles 25-26, reading as follows: "The State and community should take all necessary measures, including legislative ones, to ensure for every person real possibilities of enjoying all these rights." Such an article would show plainly that the obligation to ensure the exercise of the various rights stated in the Declaration rested upon the State.

Mr. Vilfan agreed with the Chairman that his proposal might be considered as a substitute for the first article only.

Mr. MALIK (Lebanon), in reply to a remark by the Byelorussian representative, stated that there was only a distant relationship between the first article in document E/CN.4/120 and paragraph 3 of article 21 as approved by the Commission. A "good social order" was not necessarily identical with a good Government; moreover, the present article also mentioned an international order and then proceeded to define those concepts; it thus went considerably further than the paragraph referred to by the Byelorussian representative.

/Mr. CASSIN

Mr. CASSIN (France) observed that, now that the Commission had approved the articles dealing with economic and social rights, the general situation was clearer. It was plain, for instance, that the Commission should follow the example to be found in all constitutions adopted in recent years, and should treat those rights separately from the rights of the individual. Economic and social rights, in order to be fully realized, required material assistance to be furnished by the State - a practical difference which the Declaration could not ignore. He did not agree with the United Kingdom representative that the insertion of a covering article to precede the articles on economic and social rights would over-emphasize the importance of those rights. The Commission would merely be following the method which it had used in connection with the rights of the individual.

As regards the text of the French proposal, Mr. Cassin was prepared to accept both the Australian and the Egyptian amendments; the first strengthened the principle involved, while the second was a qualification to the execution of that principle. The two amendments balanced each other.

The French representative felt that it would be a grave error to omit from the Declaration the modern and widely accepted concept of social security. Mention of it could be made in his proposal; as that article was of a general nature, the precise interpretation of the concept would be left to the individual States. He urged the Commission to accept the idea contained in his proposal.

Mr. MALIK (Lebanon) said that he failed to find anywhere in the beginning of the Declaration an article parallel to that proposed by the French representative. While there was a declaratory statement of the rights and freedoms of human beings, there was no statement to the effect that society must be so organized as to guarantee those rights and freedoms to the individual. Consequently, the adoption of the French proposal would mean that economic and social rights, the importance of which none could

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deny, would be given preferential treatment over other rights of equal importance.

In support of his remarks, Mr. Malik cited articles 5 and 6 as approved by the Commission. Those articles prohibited slavery and unjustified arrest; yet nowhere in the Declaration was there an article guaranteeing those provisions. The French proposal, if adopted, would create a bias in favour of economic and social rights; the first article contained in document E/CN.4/120 dealt adequately with all rights without exception, and should alone be approved by the Commission.

Mr. CASSIN (France) replied that the covering text which applied to fundamental human rights did not contain a guarantee because rights to life and liberty were unconditional. The realization of economic and social rights, on the other hand, involved material assistance on the part of the State, and therefore required a guarantee. There was no intention to place undue emphasis on such rights; the intention was merely to recognize their importance. It was noteworthy that all States which had rewritten their constitutions during the past thirty years had given special and separate attention to economic and social rights.

The CHAIRMAN asked the Commission to vote whether it wished to have a second covering article, the exact wording of which would be determined later, or a single article covering all the rights in the Declaration.

The Commission, by ten votes to six, approved the idea of having a second covering article.

Mr. PAVLOV (Union of Soviet Socialist Republics) supported the Yugoslav proposal. It applied equally to all articles contained in the Declaration, and could come either at the beginning or at the end.

/As regards

As regards the first article in document E/CN.4/120, he agreed with the Indian representative's previous statement that the meaning of the word "good", as applied to social and international order, was extremely debatable. The Lebanese representative, the original proposer of the article, thought that an order which granted all the rights and freedoms enumerated in the Declaration must be "good". Mr. Pavlov could not agree with that conclusion. Thus, the Declaration stipulated equality between the sexes and among the various races and religions. Even if that formal equality were realized, however, social inequalities would not be abolished. The inequality between rich and poor, that basic criterion of a social order, would remain; all the rights listed in the Declaration missed that fundamental point.

On the other hand, it was impossible for the Commission to agree upon a concrete definition of the word "good" in that particular context. The ideal social order, to some of its members, meant socialism; the views of the others were widely divergent. A discussion of the ideal social order could not bring any positive results.

If the word "good" were omitted, the proposed article would become merely tautological: everyone would have a right to the realization of his rights. Mr. Pavlov preferred the wording proposed by the Yugoslav representative, which stated the obligation of the State and society to ensure real possibilities of enjoying the rights formulated in the Declaration, and mentioned legislative measures which might be required. He hoped the Lebanese representative would be able to accept that wording.

Mr. Pavlov recalled that his delegation had wished to have included, in the article granting each right, a mention of how that right was to be realized. Since that had been defeated, it was necessary to have a single article, dealing with the realization of economic, social and political rights, either at the beginning or at the end of the Declaration.

/He thought

He thought that the French representative might accept, in lieu of his own proposal, the wording proposed by the Yugoslav representative, which could, of course, be amended as the Commission wished. It should, in any case, be taken as the basis for discussion.

The CHAIRMAN, as the representative of the United States of America, proposed the following amendment to replace the French proposal:

"Every person, as a member of society, has the economic, social and cultural rights enumerated below, and is entitled to their realization, through national effort and international co-operation, in accordance with the social system and economic and political organization in each State."

She accepted the suggestions of the Egyptian and United Kingdom representatives that the final clause should be amended to read: "in accordance with the organization and resources of each State."

Mr. CASSIN (France) proposed that there should be a mention of social security in the opening clause.

The CHAIRMAN, as the United States representative, accepted the suggestions of Mr. MALIK (Lebanon) that her text should begin:

"Every person, as a member of society, is entitled to the realization of the economic, social and cultural rights enumerated below..."

As the words "social security" did not appear in any of the articles dealing with economic and social rights, she agreed with the French representative that they should be included in her text.

Several possible ways of introducing those words were proposed by the Chairman and by the United Kingdom representative.

Mr. CHANG (China), supported by Mr. MALIK (Lebanon), remarked that the original phrase, "economic, social and cultural rights enumerated below", appeared preferable. It contained a general statement, the meaning

/of which

of which was wider than social security. If the Commission felt it necessary to use the term in the Declaration, it could do so when it revised the articles dealing with social rights.

Mr. CASMIN (France) felt that the term "social security" - which had originated in English-speaking countries - had to be included in the Declaration. It represented a stage in human development; its inclusion would strengthen the whole document. As no place had been found for the term in any of the other articles, it was necessary to introduce it into the article under consideration.

The CHAIRMAN, in reply to the USSR representative, remarked that the United States contained no mention of political rights because, like the French proposal, it was designed to precede articles dealing with economic and social rights.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought it would be incorrect to have a covering article stressing the realization of economic and social rights unless the other rights mentioned in the Declaration were covered as well. When he had voted in favour of a covering article, he thought that it would apply to all rights, though particular emphasis would be placed on the realization of economic, social and cultural rights, which, historically speaking, had been more recently recognized.

Mr. FONTAINE (Uruguay) said that he had voted in favour of a covering article in the hope that it would contain a reference to social security, which had been left out of articles 25 and 26. The concept of social security was of paramount importance and had been recognized as such in the Bogota Declaration. Unless reference to it was made in the covering article, he would vote for a reconsideration of articles 25 and 26.

He was supported by the representative of the Philippines, Mr. LOPEZ, and Mr. VILFAN (Yugoslavia).

Mr. CASSIN (France) doubted the utility of reconsidering the article which had raised such deep controversy earlier in the day. The objections which had been raised to the inclusion of social security then would undoubtedly be raised again. It was far better to include a reference to social security in the covering article, because the welfare of workers had long since ceased to be a purely national concern; the mass unemployment of 1932 showed that action was needed on an international level. The clause referring to "international co-operation" in his proposal would satisfy that necessity.

In response to the desire of the representative of Yugoslavia, the CHAIRMAN suggested that the covering article should start with the words "Every person has the right to social security and...etc."

Mr. PAVLOV (Union of Soviet Socialist Republics) advanced the following text, which, in his opinion, would satisfy all the desires expressed by the various members: "The State and society shall undertake all necessary measures, including legislation, for ensuring to every person a real possibility of enjoying all the rights listed in this Declaration. In view of the particular significance which social, economic and cultural rights have, as listed in articles 23 to 30, (particularly the right to social security) it is recognized desirable to have them implemented both through material national efforts and through international co-operation, taking into account the social and economic systems and resources of each State."

He wondered whether the wishes of the French representative would be met if a separate vote were taken on the clause referring to social security.

/Mr. CASSIN

Mr. CASSIN (France) preferred his proposal with the amendments suggested by the representatives of the United States, Egypt and Australia. If that were defeated, a vote could be taken on other proposals.

The CHAIRMAN read the proposed text, as amended by the representatives of India, the United Kingdom and China:

"Everyone as a member of society has the right to social security and is entitled to the realization of the economic, social and cultural rights enumerated below, in accordance with the organization and resources of each State, through national effort and international co-operation."

She thought that the USSR proposal would have to be considered as an alternate text because it placed emphasis on different ideas, and would have to be voted upon first because it was further removed from the original text. The United States delegation preferred the French proposal, as amended, and would vote for it rather than for the USSR text.

Mr. CHANG (China) wondered whether it was the intention of the Commission, by placing the covering article at the head of the articles dealing with economic and social rights, to create for them the name of "social security articles". He suggested that the clause referring to social security should be voted upon separately in both proposals.

The clause reading "particularly the right to social security" of the USSR proposal was adopted by 5 votes to 1, with 9 abstentions.

The first sentence of the USSR proposal was rejected by 11 votes to 4.

The second sentence of the USSR proposal was rejected by 10 votes to 4, with 1 abstention.

The phrase "Everyone...has the right to social security" of the amended French proposal was adopted by fifteen votes, with two abstentions.

The French proposal, as amended, was adopted by twelve votes, with five abstentions.

The meeting rose at 5:15 p.m.