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COMMISSION ON HUMAN RIGHTSSecond Session

## Working Group on the Declaration of Human Rights

Summary Record of the Fifth Meeting,  
held at the Palais des Nations, Geneva,  
at 3 p.m. on Monday, 8 December, 1947.

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## Present:

President: Mrs. F.D. ROOSEVELT (United States of America)

Rapporteur: Professor CASSIN (France)

Members: M. STEPANENKO (Byelorussian S.S.R.)  
M. AMADO (Panama)  
General ROMULO (Philippines)  
M. BOGOMOLOV (U.S.S.R.)

Representatives of the Commission on the Status of Women: Mme. BEGTRUP  
Mme. URALOVA

Observer: Mr. HEPPEL (United Kingdom)

Secretariat: Miss KITCHEN

Specialized Agencies: Mr. HAVET (U.N.E.S.C.O.)  
Dr. WEISS (I.R.O.)

Non-Governmental Organizations: Mr. EASTERMAN (World Jewish Congress)  
Mr. WINN (Consultative Council of Jewish Organizations)

Category. B: Mr. NOLDE (Commission of the Churches on International Affairs)  
Miss ROMER (International Union of Women's Catholic Organizations)  
Miss van EGHEN (International Council of Women)

Article 12 (Document E/CN.4/21, Annex F, E/CN.4/36/Add.2, A/148)

The CHAIRMAN said that the United States Delegation was prepared to accept the Panama wording of this Article (Article 6, A/148), but would prefer a more positive beginning such as "everyone has the right".

Professor CASSIN (France) stated that the text of the Drafting Committee had been the result of a compromise, and was based on the text of several national constitutions. In his opinion, the U.S. text (E/CN.4/36/Add.2), with possibly some modification, would be suitable. In reply to a question by the representative of the U.S.S.R. as to the phrase "respect for reputation", he said that this meant the right of the individual to be protected from slander against his reputation. He considered the alternative text (Chile and France) given in the Drafting Committee's recommendation (E/CN.4/21) rather limited and proposed the following amendment based on the U.S. text. "Everyone has the right to protection under law of the right to privacy, family, home, correspondence and reputation".

M. AMADO (Panama) referred to Article 6 of the Panama Draft (A/148) and thought that inviolability of the person should be afforded the same guarantees as that of his domicile.

M. BOGOMOLOV (Union of Soviet Socialist Republics) remarked that the obligation to protect the private life of the individual presupposed his conforming to the law. Qualifications should be inserted to this effect.

Professor CASSIN (France) wished to reassure the representative of Panama on the question of protection of the person which had already been covered by the article on slavery. In Article 12 it was the liberty of the home which

was affirmed, not that of the individual. Replying to the representative of the U.S.S.R., he pointed out that protection by law implies conformity to that law. He agreed that there were some grounds for criticism of the present text, and suggested as a further modification the following wording: "Everyone is entitled to protection under law from unreasonable interference with his reputation, privacy and family".

M. AMADO (Panama) said the Drafting Committee and Panama texts were linked, although different. He thought that the protection of "activities" should be included in the Article.

Professor CASSIN (France) said that the substance of the Panama text was included in the Declaration as a whole. Article 12 concerned the home and the family. The protection of activities was dealt with later, and he did not think it should be included in this Article.

Decision: After some discussion concerning the English rendering of the French proposal, the following text was adopted by 3 votes to none with three abstentions.

"Article 12. Everyone shall be entitled to protection under law from unreasonable interference with his reputation, his privacy and family. His home and correspondence shall be inviolable."

Article 10. Sentence 2

The CHAIRMAN reminded the meeting that in adopting Article 10, only the first sentence had been considered.

Professor CASSIN (France) referred to statements made at a previous meeting by the representative of the Commission on the Status of Women who had spoken of including in the Article on torture reference to other degrading practices.

This could best be provided for by the U.S. text (E/CN.4/36/Add.2) which included the word "indignity".

General ROMULO (Philippines) supported this, but requested the inclusion of the words "unusual punishment or indignity".

The CHAIRMAN pointed out that the word "unusual" might not cover all cases. In some countries inhuman practices might not be unusual.

The U.S. text was adopted by 5 to none and 1 abstention, reading as follows: "No one shall be subjected to torture or to cruel or inhuman punishment or indignity".

#### Article 14

The CHAIRMAN pointed out that the U.S. short text (E/CN.4/36/Add.2) considerably curtailed the wording without altering the substance of the Article.

Dr. WEISS (I.R.O.) requested the Committee to consider the views submitted by the Preparatory Commission of the International Refugee Organization (E/CN.4/41). The right of asylum was of vital importance to his organization and, in his opinion, the rights granted under Article 14 were very imperfect. He hoped that the Committee would reconsider the wording with a view to sponsoring more positive action.

Mr. EASTERMAN (World Jewish Congress) supported the statement of the representative of the I.R.O. He contended that Article 14 afforded a right of escape with no corollary of a right of access to the country of reception. Many refugees from Germany had been denied this right which had resulted in the death of thousands. Moreover, Article 14 failed to implement Article 7, since persons who were denied the right of asylum frequently died and thus were denied the right to life.

Mlle. ROMAN (International Union of Women's Catholic Organizations) strongly supported the views expressed by the two previous speakers.

The CHAIRMAN thought it would be dangerous to raise any false hopes in the Declaration and doubted whether it was within the province of the United Nations to tell Member States that they must grant asylum. She cited the U.S. immigration laws as a concrete instance of these difficulties. It would perhaps be feasible to place a statement in the record expressing the hope of the Commission that States would take steps to receive persons seeking asylum from persecution.

Professor CASSIN (France) remarked that right of asylum was a good illustration of the difference between a Declaration and a Convention. It was appropriate that the subject be expounded in a Declaration in order that the necessary steps for implementation could be secured in a Convention which would be binding on all nations where such a right was not granted under the Constitution. He proposed the wording: "Everyone shall have the right to escape persecution by seeking asylum in another country."

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said that, if an article concerning the right of asylum were included, great care should be taken to define the type of individual entitled to that right. It should only be accorded to persons persecuted on racial or religious grounds. Many supporters of the Hitler regime had posed as refugees in order to escape from their own countries and intrigue against them.

The CHAIRMAN said that criminals had no right of asylum. She added that their object was to prepare a document which would be of value over a period of time and in which it would

be unwise to attempt too definitive a text.

General ROMULO (Philippines) felt that this Article should be more positive as suggested by the representative of the I.R.O. and the World Jewish Congress. It was not so much a question of raising false hopes as of establishing a principle to be followed by all. He supported the final paragraph of the I.R.O. proposals (Document E/CN/41) which he thought worthy of consideration as a substitute for Article 14 of the text before the Committee.

Professor CASSIN (France) said that the question had two aspects. First, the Article should bring out more clearly that a principle of law was involved. This could possibly be done by the substitution in the U.S. short text of the words "to find" for "to seek". Secondly, as regards the point raised by the representative of the U.S.S.R., Article 14 could not be invoked in favour of criminals or of persons subject to extradition proceedings and a note to this effect might be included. There was a political aspect and in this connection the text of the I.R.O. document might be considered. He did not, however, like the word "opinion" in the final paragraph of this text. Persons should only be excluded as a result of acts and not by reason of their opinions.

Mr. AMADO (Panama) referred to the experience of his government in many cases where refugees had been charged with the commission of a criminal offence, in order that they should be prevented from obtaining asylum. He thought that particular care should be taken in drafting the text to guard against this.

The CHAIRMAN suggested that comments should be inserted as a footnote to this Article with a reservation in respect of

criminals together with an addition that the right of asylum did not exist in any real measure at this time, and expressing the hope that it would be more literally granted in the future.

Mr. EASTERMAN (World Jewish Congress) appreciated the proposal that a comment should be made as a footnote to the text but considered the words "right to find an asylum" inadequate since these imposed an obligation on the individual. He was concerned with the fate of potential victims of persecution on whose behalf he pleaded the elemental human right to be freed from danger. He was aware of the judicial difficulties of this question. He did not suggest any alteration of laws nor a right to permanent residence, but only for temporary asylum. He requested the Committee to re-examine the question in the light of these contentions.

General ROMULO (Philippines) thought that the text as it stood put the onus of finding asylum on the refugee and suggested a more positive declaration to the effect that "all refugees from religious, racial and political persecution shall have the right to seek and be granted asylum, provided however, that the right of asylum shall not be granted to political refugees whose acts or opinions are inconsistent with the aims and objects of the United Nations."

Professor CASSIN (France) thought it unwise to attempt to qualify the word "persecution". In his view the comment should stress the necessity for a Convention and point out the difficulties imposed on bona fide persons seeking asylum.

#### Decision

The following wording was then put to the vote: adopted by 4 to none with 2 abstentions.

"Article 14

Everyone shall have the right to seek and be granted asylum from persecution. This right shall not be accorded to criminals nor to those whose acts are contrary to the principles and aims of the United Nations."

Article 15

The CHAIRMAN drew attention to the suggestion in the Report of the Sub-Commission Prevention of Discrimination and Protection of Minorities (Document E/CN.4/52) page 7, to refer Article 15 to the Commission on the Status of Women. As regards the text of the Article, the U.S. delegation was prepared to accept the Drafting Committee's version, but preferred the U.S. short text (E/CN.4/36/Add.2).

Mrs. BEGTRUP (Commission on the Status of Women) expressed surprise at the recommendation of the Sub-Commission in view of the conclusions recorded in the last Report of the Commission on the Status of Women (Document E/281/Rev.1) advocating full equality of civil rights. She agreed that these conclusions were too detailed for incorporation in the Declaration, but suggested that they could be included in a general statement to read "everyone has full equality of civil rights, irrespective of marriage, race, language or religion."

General ROMULO (Philippines) thought the question would be covered when Article 6 came up for consideration.

The CHAIRMAN suggested that women were included under the wording "everyone" in this Article.

Professor CASSIN (France) supported the CHAIRMAN and stressed the fact that Article 15 not only envisaged equality of sex but had two other points of significance. Firstly, it was the counterpart of the Article on the abolishment of slavery,



the conception of which it entirely eliminated. Secondly, it was an expression of the fundamental civil rights of man. The many different aspects of this important question had been brought out by the proposals contained in the Report of the Sub-Commission on Minorities (Document E/CN.4/52). In his opinion, it was impossible to achieve complete equality of civil rights at this juncture, but every State should be bound to concede those rights without which no human being should be forced to live, that is to say, the fundamental civil rights. This was the sense of Article 15.

Miss ROMAN (International Union of Women's Catholic Organizations) said that, after hearing the views of the representatives of France and the Philippines, she was in agreement that the subject was generally covered by the Article in question, but thought that there should be some protection in the Declaration for the unity of the family.

Miss van EGHEN (International Council of Women) claimed that women should have equal civil rights whether married or unmarried and stated that many countries gave women equality of civil rights which they lost on contracting marriage. She asked that the Declaration should affirm the right of women to enjoy the same status whether married or unmarried.

Mrs. BEGTRUP (Commission on Status of Women) maintained that this intention was clearly in the minds of the Drafting Committee (as witness the note on Article 15) and also of the persons responsible for the Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (Document E/CN.4/52). She was not asking for any special concessions for women but for equality of rights.

The CHAIRMAN pointed out that Article 5, which had already been adopted referred to "all as being equal before the law."

She proposed the following text:

"Everyone has the right everywhere in the world to recognition as a person before the law and to the enjoyment of fundamental civil rights."

Decision: The above text was adopted by 3 to 1 with 2 abstentions. This text was adopted.

Professor CASSIN (France) thought it advisable to insert after Article 15 a further clause or separate Article on the contracting of marriage which should not be permitted without the free consent of both parties or to those whose age was not compatible with free consent.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) said that it would be preferable to have a separate Article on Marriage. In his country, marriage and the family were placed under the protection of the law which governed impartially the rights of both sexes. The mother and child were afforded a special safeguard. He thought that an Article should be drafted on the lines that men and women should have the same right of choosing a marriage partner, followed by a clause affording the protection of the State to the marriage, family and children.

The CHAIRMAN ruled that further discussion of this matter should be postponed until all proposals were submitted in writing.

#### Article 16

The CHAIRMAN proposed that consideration of this Article should be deferred until the economic and social rights were discussed. They began with Article 29. This proposal was supported by the representative of the Philippines.

Professor CASSIN (France) pointed out that there was a logical order to the Chapters with which the Drafting Committee's

text was originally headed, but he had no objection to alteration of the sequence for the purposes of discussion.

Article 18

In reply to a question by the representative of the U.S.S.R. as to what was meant precisely by the sentence "everyone has a right to a nationality", Professor CASSIN (France) said that nationality and the right of asylum were closely linked. As a result of the war there were thousands of stateless persons all over the world constituting a grave social issue, both from the point of view of the country harbouring them and of the people concerned. Whilst the United Nations had no power to grant nationality, a duty remained to call the attention of Member nations to a situation which would become increasingly serious. For these reasons, the principle enunciated by the Article should be the subject of a Convention.

Dr. WEISS (I.R.O.) expressed himself in agreement with the representative of France, and made reference to the I.R.O. document E/CN.4/41. He said that such a Declaration, however, could amount to little more than a pious hope and that there would be stateless people for many years to come. Refugees did not enjoy the normal rights of persons possessing a nationality and his organization was in favour of the creation of a permanent special agency to exercise a more effective protection over these people. He requested that Article 16 should contain some proposal to this effect. The I.R.O. itself was a non-permanent institution dealing with a limited class of persons only.

Mr. WINN (Consultative Council of Jewish Organizations) asked whether the Committee could not insert an addendum to

this Article in the following form: "the United Nations recognizes statelessness as a denial of Human Rights and contrary to the interests of the international community."

Mrs. BEGTRUP (Commission on the Status of Women) expressed a special interest in this subject, since many women forfeited their nationality on marriage. The question had been under consideration for many years, but there had been serious obstacles to its solution. She expressed the view that this issue should be made the subject of a Convention.

Mr. BOGOMOLOV (Union of Soviet Socialist Republics) felt that the right expressed under this Article would be void unless the obligation to grant nationality was clearly defined. He asked on whom the obligation was to be imposed, since the principle seemed an infringement of the sovereign rights of States. There were instances of stateless persons who had violated their national laws. He took the view that it was not within the scope of the Committee to deal with such a complex problem.

Professor CASSIN (France) agreed that it was impossible in the Declaration to touch on all the aspects of this question, but that it was essential to stress the importance of a matter which might exercise a great influence on the future well-being of the community of nations.

Decision: The text as proposed by the Drafting Committee (Document E/CN.4/21. Annex F) was adopted by 4 votes to 1 with 1 abstention.

General ROMULO (Philippines) suggested that the following paragraph from the statement of the Preparatory Commission of the International Refugee Organization (Document E/CN.4/41, page 3) might be adopted as a comment to Article 18.

"All persons who do not enjoy the protection of any State shall be placed under the protection of an International Organization established by the United Nations."

The CHAIRMAN said that this would involve putting on record a recommendation for the creation of a new specialized agency and she thought it would be preferable to make a more general comment.

Professor CASSIN (France) suggested that such a comment could be worded:

"The United Nations should assume certain responsibilities for those who have not a nationality and a Convention might be drawn up to this effect."

Decision: The above comment was adopted without objection.

The meeting rose at 7 p.m.