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COMMISSION ON HUMAN RIGHTS

SECOND SESSION

Report of the Working Group on the Declaration  
on Human Rights

CHAPTER I

Introduction

1. The meetings of the Working Group of the Human Rights Commission were held from Friday, 6 December 1947, at 11.30 a.m. until ..... December. The following represented their respective countries:

Chairman: Mrs. Franklin D. ROOSEVELT

Rapporteur: Prof. René CASSIN (France)

Members: Mr. STEPANENKO, Byelorussian S.S.R.

Mr. AMADO (Panama)

General ROMULO (Philippines)

Mr. BAGOMOLOV (Union of Soviet Socialist Republics)

The British Delegation sent Mr. HEPPEL as an observer.

Representatives of the COMMISSION ON THE STATUS OF WOMEN:

Mrs. BEGTRUP

Mrs. URALOVA, Rapporteur

Specialized Agencies: Mr. de GIVRY, International Labour Organization

Mr. BESSLING " "

Mr. HAVET, UNESCO

Dr. VEISS, Preparatory Commission for the  
International Refugee Organization (IRO)

Non-Governmental  
Organizations:

Category A: Mr. ROBINET de CLERY, Inter-Parliamentary Union  
Miss F. SENDER, American Federation of Labor  
Mr. P.G.S. SERRARENS,) International Federation  
Mr. VANISTEN DAEL ) of Christian Trade Unions

Category B: Dr. BINNENFELD,) World Jewish  
Mr. EASTERMAN ) Congress  
Dr. DUCHOSAL, International Red Cross Committee  
Miss Van EEGHEN, International Council of Women  
Mr. WIMM ) Consultative Council  
Professor BENTWICH ) of  
Mr. Paul MANTOUX ) Jewish Organizations  
Mr. NOLD, Commission of the Churches on  
International Affairs  
Miss de ROMER, Union internationale des Ligues  
féminines catholiques

2. The Working Group on the Declaration elected  
Mrs. F. D. ROOSEVELT, Chairman, and Professor René CASSIN,  
Rapporteur. Miss KITCHEN acted as secretary to the Working  
Group.

The views expressed by the members of the Working Group  
will be found in the report and summary records of the various  
meetings.

CHAPTER II

Terms of reference and Working Method

3. The Working Group on the Declaration was set up by the  
Human Rights Commission in pursuance of a draft resolution  
submitted by the Belgian Delegation and adopted on .....  
It got to work as soon as it was constituted and is to report  
to the Plenary Commission so that the latter can, during the  
present session, take such decisions as it may think fit on  
these proposals.

4. A preliminary exchange of view took place on the question of the text which was to serve as the working document.

On the proposal of the delegate of the Union of Soviet Socialist Republics, the Draft Declaration drawn up by the Drafting Committee at Lake Success and contained in Annex F of its report (Document E/CN.4/21) was adopted as the basic document.

The CHAIRMAN stated that the United States delegation had drawn up a draft Declaration (Document E/CN.4/36) which was inspired by the desire to reduce to essentials the contents of the Drafting Committee's proposal. She expressed her preference for a short declaration, since brevity would facilitate its dissemination throughout the world.

The representative of France, while expressing the same preference, thought that the Declaration should begin with some Articles of a general character. The representative of Panama submitted a proposal relating to the draft submitted to the United Nations Assembly by his country in 1946, which was no other than the "Declaration of Philadelphia" drawn up between 1942 and 1944 by the jurists of 24 nations under the auspices of the American Institute of Law (Document A.148):

"That the Commission, with a view to any re-draft of the preliminary draft Declaration or Convention on human rights, should take special note of the International Declaration on Essential Human Rights and Freedoms submitted to the Commission in pursuance of the Resolution adopted by the General Assembly during the second part of its first session."

This proposal was unanimously accepted.

5. On the CHAIRMAN's proposal the Working Group decided not to discuss the preamble of the Declaration during the present session,

but to confine itself to defining the principles to be included therein.

6. The character of the future Declaration was then considered. The representative of the U.S.S.R. observed that it was not a question of drawing up a short or a long declaration, but a clear, straightforward and complete one, such as would give real practical help in protecting the democratic rights of individuals. The United Kingdom representative thought that the Declaration should be drawn up in quite a different form from the Convention; whereas the Convention should be drafted in legal form, the Declaration was a statement of general principle which it would be best to make brief. According to the French representative the essential difference between the Declaration and the Convention lay in their general character. The Declaration was a synthesis, a general view, whereas the Convention or Conventions defined something more precise.

The representative of Panama stated that it was important that a clause be included in each Article mentioning the duty of the State to implement the provision contained in it. However the Working Party reserved its decision on this point. It also decided that in general limitations imposed by the exigencies of law and order or for other reasons should not be inserted in each Article in respect of the rights of freedoms granted therein. The same applies to the principle of non-discrimination.

The CHAIRMAN in reply to a question by the U.S.S.R. representative, having stated that a separate, though not a final, vote would be taken on each of the Articles in the Declaration, the U.S.S.R. representative declared his intention of abstaining from these separate votes and of voting only on the text as a whole.

### CHAPTER III

#### TEXTS:

##### PRELIMINARY ARTICLES:

##### ARTICLE I

###### Text suggested by the Philippines:

"All men are brothers. Being endowed with reason and conscience, they are free and possess equal dignity and rights."

###### French Suggestion:

"All men are born free, and equal in dignity and rights, and shall regard each other as brothers."

Comment. The two representatives submitted a new joint text and the Chairman read out the Article for adoption in the following form:

"All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers."

##### ARTICLE 2

The first alternative appearing in the Report formed the subject of a comment by the delegate of France but was not maintained or put to the vote.

The second alternative formed the subject of amendments submitted by the Delegates of the United States, Panama and the Philippines. The following text was adopted:

"In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and

body in wider freedom."

#### ARTICLES 3 to 6

Paragraph 1. "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, sex, language, religion, political or other opinion, property status, or national or social origin".

Paragraph 2. "All are equal before the law regardless of office or status and entitled to equal protection of the law against any arbitrary discrimination in violation of this Declaration".

#### Text adopted.

Comment. Paragraph 1 of the text reproduces the former Article 6 of the Drafting Committee's proposal as amended by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

Paragraph 2 is a combination of Article 3 adopted by the Working Group at its second meeting on proposals made by Panama and the Philippines, with Article 17 of the draft of the Government of Panama.

An amendment by the Philippines to Article 3 regarding the conformity of laws, decretés, ordinances, and other administrative and judicial instruments of the various States, with the purposes and principles of the United Nations, was deferred for examination, as was also the amendment which the Delegate of France had proposed to submit regarding appeal by individuals against actions taken by authorities in violation of the law.

#### Life and liberty of the person.

#### ARTICLE 7

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

#### Text adopted.

## ARTICLE 8

The Drafting Committee's text was adopted with an amendment proposed by the United States added to the end:

"No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Everyone placed under arrest or detention shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release."

## ARTICLE 9

"Everyone shall have access to independent and impartial tribunals for the determination of his rights and obligations. He shall be entitled to aid of counsel and, when he appears personally, to understand the procedure and to use a language which he can speak."

### Text adopted.

Comment. This text covers the whole of any individual's right to justice and renders Article 15, paragraph 2, of the Drafting Committee's draft redundant.

## ARTICLE 10

"Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence and which shall be pursuant to law in effect at the time of the commission of the act charged.

"No one shall be subjected to torture, or to cruel or inhuman punishment or indignity."

Comment. This Article 10 combines the former Article 9 and the former Article 10 of the Drafting Committee's text. It was understood that the question of a competent court raised by

the delegate of Panama is covered equally by the passage concerning guarantees necessary for defence and that concerning the necessity to apply the law in effect at the time of the commission of the act charged. It was also understood that this text covers one of the general principles which are not applicable to minor administrative offences that do not always require legal proceedings. It also does not prevent a court from holding closed sessions or reading secret documents provided that the sentence be pronounced in public.

#### ARTICLE 11

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

Comment. In adopting Article 11 members of the Working Group meant it to cover traffic in women, involuntary servitude and forced labour, and governments of Powers exercising their jurisdiction in trust and non-self-governing territories to be specially responsible for abolishing slavery in those territories.

#### ARTICLE 12

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

#### ARTICLE 13

"Subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of security or in the general interest there shall be liberty of movement and free choice of residence within the borders of each state."

"Individuals shall have the right to leave their own country and, if they so desire, to change their nationality to that of any country willing to accept them."

Comment. This Article is entirely in conformity with the text proposed by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

It was recognized that the right of emigration, affirmed above, would not be effective without facilities for immigration into and transit through other countries. The Working Group recommends that these corollaries be treated as a matter of international concern and that members of the United Nations co-operate in providing such facilities.

#### ARTICLE 14

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

Comment. The Drafting Committee's draft was amended both at the request of the International Organization of Christian Trades Unions and the International Refugee Organization (IRO) which found that the expression "to seek asylum" did not sufficiently express the right of a persecuted individual, and at the request of members of the Working Group who considered it necessary explicitly to exclude from the right of asylum ordinary criminals, who are generally subject to extradition laws, and all those whose acts are contrary to the principles and purposes of the United Nations.

#### Fundamental Civil Rights.

#### ARTICLE 15

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

#### ARTICLE 15A

"Men and women shall have the same freedom to contract

marriage in accordance with the law.

"Marriage and the family shall be protected by the State and Society."

Comment.

It was understood that for application of this Article reference would be made to the general texts prohibiting discrimination, and also that the special protection due to mother and child having formed the subject of an amendment by the Delegation of Byelorussia would be discussed separately during examination of Article 34.

It was also noted that married persons should have the right to reside together in any country from which they could not be lawfully excluded.

ARTICLE 16

See Article 30.

ARTICLE 17

"Everyone has the right to own property in conformity with the laws of the State in which such property is located.

"No one shall be arbitrarily deprived of his property."

Nationality.

ARTICLE 18

"Everyone has the right to a nationality."

Comment. The United Nations should assume certain responsibilities for those who at the present time do not have a nationality and they should work out one or more Conventions in order that the principle laid down in the text may become a reality through collaboration between States.

ARTICLE 19

(text proposed by the Drafting Committee)

"No alien legally admitted to the territory of a State may be expelled therefrom without having a fair hearing."

Comment. The above text was rejected by a majority.

Public freedoms.

#### ARTICLE 20

"Para 1. Individual freedom of thought and conscience, to hold and change beliefs is an absolute and sacred right.

"Para 2. Freedom of belief, of worship and of religious teaching is the right of everyone."

Comment.

Para 1 was adopted without any change in the Drafting Committee's text.

Para 2 was adopted on a motion by the Delegate of Panama, by 3 votes, with 3 abstentions, after the rejection of a French amendment and a Philippine amendment.

It is understood that the freedoms mentioned in Article 20 include the right of religious observance and practice, as well as the right of association for religious and moral purposes.

#### ARTICLE 21

"Everyone is free to express and impart opinions, or to receive and seek information and the opinion of others from sources wherever situated.

No person may be interfered with on account of his opinions."

#### ARTICLE 22

"There shall be freedom of expression either by word, in writing, in the press, in books or by visual, auditative or other means. There shall be equal access to all channels of communication."

Comment. Neither of the above texts proposed by the Drafting Committee was discussed at all by the Working Group, owing to the fact that the International Conference on Freedom of Information and of the Press is to be held in March 1948.

### ARTICLE 23

"Everyone has the right to freedom of peaceful assembly and to participate in local, national and international associations for purposes of a political, economic, religious, social, cultural, trade union or any other character, not inconsistent with this Declaration."

Comment. It is understood that no individual or association that aims to destroy the fundamental rights and freedoms set forth in this Declaration can claim protection under this Article.

The Article is not intended to include international political associations forbidden by law.

### ARTICLE 24

"No-one shall be denied the right, either individually, or in association with others, to petition or to communicate with the public authorities of his State, or his residence or of the United Nations."

### ARTICLE 25

"When a Government, group or individual seriously or systematically tramples the fundamental human rights and freedoms, individuals and peoples have the right to resist oppression and tyranny."

Comment. This text has been omitted with a view to inclusion either in the Preamble or in a Final Article.

### ARTICLES 26 and 27

#### Political Rights.

"Everyone without discrimination has the right to take an effective part in the Government of his country. The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot."

This text which combines Articles 26 and 27 of the Drafting Committee's proposal is based on the Draft of the Government of

Panama, amended according to a Byelorussian amendment and to the recommendation of the Commission on the Status of Women.

Following the suggestion of the representative of the United Kingdom it was understood that in non-metropolitan territories the use of such balloting procedures as the secret ballot could not be imposed when its effect might be contrary to the intentions of Article 73 (d) of the Charter, or to the obligations contained in the relevant parts of the Trusteeship Agreements.

The French Delegation also remarked that the text adopted could not be construed as requiring Member States to enforce a specific form of ballot, in particular the "Family Vote" which confers on adults the voting rights that would belong to minors.

#### ARTICLE 28

"Everyone shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen."

Access to public employment shall not be a matter of privilege or favor."

Comment. The Drafting Committee's proposal, taken up by the Sub-Commission on the Protection of Minorities, has been shortened.  
Social, Economic and Cultural Rights.

#### ARTICLE 29

"Everyone has the right to work."

"The State has a duty to take such measures as may be within its power to ensure that all its citizens have an opportunity for useful work."

#### ARTICLE 30

"Everyone has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions, to join trade unions for the protection of his interests in securing a decent standard of living for himself and his family."

Women shall have the right to work under the same conditions as men and to receive equal pay for equal work."

Comment. In the conditions prevailing at present in the world, legislation providing varying degrees of protection for women may be necessary, in particular in regard to heavy or specifically harmful work.

#### ARTICLE 31

"Everyone has the right to education. Fundamental education shall be free and compulsory. There shall be equal access for higher education as can be provided by the State or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, financial means, or political affiliation."

#### ARTICLE 31A

"Education will be directed to the full physical, spiritual and moral development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the combating of the spirit of intolerance and hatred against other nations or racial or religious groups everywhere."

#### ARTICLE 32

"Everyone has the right to rest and leisure."

Comment. Rest and leisure should be ensured to everyone by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

#### ARTICLE 33

"Everyone without distinction as to economic and social conditions, has the right to the preservation of his health by means of adequate food, clothing, housing and medical care. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures."

#### ARTICLE 34

"Everyone has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequences of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.

Motherhood shall be granted special care and assistance. Children are similarly entitled to special care and assistance."

#### ARTICLE 35

"Everyone has the right to participate in the cultural life of the community, to enjoy the arts, and to share in the benefits that result from scientific discoveries."

Comment. It was understood that this does not mean that secret processes that have been patented should be revealed.

#### ARTICLE 35A

"Authors of all artistic, literary and scientific works and inventors shall retain in addition to the just remuneration of their labour, a moral right on their work and/or discovery, which shall not disappear, even after such work shall have become the common property of mankind."

Comment. The French amendment suggesting that this text should be taken up again, as proposed in the Drafting Committee, has been dropped.

#### ARTICLE 36

(Drafting Committee's text)

"In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right, as far as compatible with public order, to establish and maintain schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before

the courts and other authorities of the State."

Comment. The Sub-Commission on the Protection of Minorities has proposed the following text (CN.4/52):

"In States inhabited by well-defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security to establish and maintain their schools and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose."

In the course of the discussion the following Byelorussian amendment was submitted:

"The rights of minorities must be guaranteed by the State by means of establishing standards and procuring the necessary means from State sources in order to give members of such groups rights of nation and nationality in the framework of national and territorial autonomy."

A French amendment to replace the word "persons" in the fourth line by the term "citizens of the country" was also submitted. The United Kingdom representative suggested that the words "and other authorities of the State" after the words "the courts" should be deleted.

Finally it was decided by four votes to one to submit the Drafting Committee's text for Article 36, pointing out that it was only a suggestion for Governments to comment on and had not been adopted by the Working Group. The draft text of Article 36 proposed by the Sub-Commission on the Protection of Minorities was also referred to Governments.

### Final Provisions

#### ARTICLE 37

"All the rights and liberties recognised in the present Declaration are limited by the reasonable requirements of public order and security, and morality."

Comment This general text, whose necessity was recognised at the outset of the Working Group's discussions was not voted upon by the Group.

#### ARTICLE 38

"The States Members of the United Nations shall ensure that their Law (statutes, regulations and all administrative acts) is brought into, and maintained in, conformity with the principles of the present Declaration.

A system of effective judicial and administrative appeal shall be organised by each State for the purpose of penalising violations of these principles."

Comment: The above text arises from a proposal presented by the Representative of the Philippines during the discussion of Article 3, a proposal made by the Representative of Panama, and an amendment to paragraph 2 proposed by the Representative of France. It was not voted upon by the Working Group.