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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SIXTY-FOURTH MEETING

Held at Lake Success, New York,
on Tuesday, 8 June 1948, at 2.30 p.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. C. MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. LEBEAU	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. LARRAIN	Chile
	Mr. CHANG	China
	Mr. LOUFI	Egypt
	Mr. CASSIN	France
	Mrs. MEETA	India
	Mr. de 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
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Specialized Agencies:

Mr. METALL	International Labour Organization
Mr. LEBAR	United Nations Educational, Scientific and Cultural Organization
Mr. HILL	World Health Organization

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Non-Governmental Organizations:

Miss SENDER	American Federation of Labor
Mr. Van ISTENDAEL	International Federation of Christian Trade Unions
Miss DRENNAN	Catholic International Union for Social Service
Mr. NOLDE	Commission of the Churches on Inter- national Affairs
Mr. JANNER and Mr. BROTMAN	Co-ordinating Board of Jewish Organization
Miss STRAHLER	International Committee of the Red Cross
Miss SCHAEFER	International Union of Catholic Women's Leagues
Miss ROBB	Liaison Committee of Women's Inter- national Organizations
Mr. BIENENFELD	World Jewish Congress

Secretariat:

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

CONTINUATION OF CONSIDERATION OF THE ARTICLES OF THE DECLARATION OF HUMAN RIGHTS

Articles 17 and 18 (Continuation)

The CHAIRMAN requested the representative of China to present the conclusions of the Drafting Sub-Committee on articles 17 and 18.

Mr. CHANG (China) said that the Drafting Sub-Committee had not intended to change the substance of the articles and had limited itself to proposing slight drafting modifications: replacing "freedom of opinion", in the second line, by "freedom of thought", and in the English text, replacing "any means" by "any media".

The CHAIRMAN pointed out that the USSR representative also had transmitted an amendment on those articles to the Secretariat (document E/CN.4/117).

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed to amend the Drafting Committee's text by adding the phrase "within the limits which

/ensure the

ensure the security of the State". The present text made no mention of the security of the State; it was too wide in scope and could lead to abuses, for it could protect any aspect of espionage. No State could allow a foreigner to collect any kind of information within its boundaries without any control. Articles 17 and 18, as now drafted, represented a violation of national sovereignty. Moreover, not only was the amendment indispensable in principle, but it corresponded to the practice followed by all States. In addition it represented nothing new, for it was taken word for word from the text worked out and unanimously adopted by the Sub-Committee on Freedom of Information, which had met on 19 January 1948. True, the text then applied to correspondents and the press, but it could very well be made to apply to all individuals.

The CHAIRMAN wished to make clear that the report of the Sub-Committee on Freedom of Information had been submitted to the Conference on Freedom of Information and of the Press, which had itself drafted the article as it appeared in the Draft Declaration. In her opinion, the limitations mentioned in article 2 of the Declaration would suffice to calm the anxiety of the representative of the Union of Soviet Socialist Republics, particularly if it were decided to strengthen the provisions of that article.

The USSR amendment was rejected by 12 votes to 4, with 1 abstention.

The Drafting Committee's text, as amended by the Drafting Sub-Committee, was adopted by 13 votes to 4.

Mr. CASSIN (France) remarked that certain modifications of form might be required in the French equivalent of the text which had just been adopted in its English version.

The CHAIRMAN observed that the Commission still had to take a stand on the amendment submitted by the Egyptian representative at the sixtieth meeting and which would be inserted as a new article after article 19.

/Mr. LOUFI

Mr. LOUFI (Egypt) declared that he would withdraw his amendment provided the Commission voted to reconsider article 2 of the Declaration and to strengthen its provisions.

Mr. CHANG (China) recalled that his delegation had suggested placing article 2 at the end of the Declaration. In addition, since it was apparent that the majority of members favoured a reconsideration of that article, he did not think it appropriate to vote for its reconsideration before it was known in what way it would be modified. He therefore proposed that the Commission should merely mention those two suggestions in its minutes.

Mr. WILSON (United Kingdom) said that it would be difficult to vote on the revision of the article without knowing how it would be changed. He suggested that the representatives of France and Egypt should submit a text on the basis of which the Commission could express its opinion.

The CHAIRMAN remarked that there was no question of voting on a text but merely of deciding whether the Commission was eventually prepared to reconsider article 2, and, for that purpose, to appoint a drafting sub-committee composed of the representatives of France, Egypt and the United Kingdom.

The Commission would be pledged to nothing except the setting up of a drafting sub-committee to consider the question.

Mr. VILFAN (Yugoslavia) declared that, were a drafting sub-committee to be appointed, it would be advisable to include among its members the representative of the USSR, as the suggestion of the French representative concerning the strengthening of the provisions of article 2 had been made in connection with Mr. Pavlov's observations.

The CHAIRMAN accepted that suggestion and put to the vote the question as to whether the Commission would reconsider article 2.

The proposal was adopted by 15 votes, with 2 abstentions, the Drafting Sub-Committee was set up.

The CHAIRMAN noted that the Commission would also have to undertake the drafting of a preamble. She suggested that the members of the Commission should present their written proposals on that subject within twenty-four hours, and proposed to name a drafting sub-committee, composed of four of the Officers of the Commission.

Articles 23 and 24

Miss ROBB (Liaison Committee of International Women's Organizations) speaking on behalf of 14 feminine organizations, requested that paragraph 2 of article 24 of the Drafting Committee's text should be deleted. Not only were its provisions covered by the first paragraph of the same article, but the very existence of a paragraph containing as it did, a qualification of the word "Everyone", could lead to the belief that when that word appeared unqualified elsewhere, it did not comprise both men and women.

The CHAIRMAN declared that the United States supported the text presented by India and the United Kingdom (Document E/CN.4/99), with the addition of the words: "as well as to form trade unions and to join the trade union of his choice."

The United States delegation favoured the inclusion of economic and social rights in the Declaration, for no personal liberty could exist without economic security and independence. Men in need were not free men. The United States delegation considered that the Declaration should enunciate rights, not try to define the methods by which Governments were to ensure the realization of those rights. Those methods would necessarily vary from one country to another and such variations should be considered not only inevitable but salutary.

/As regards

As regards article 23, which concerned the right to work, in the opinion of her delegation that right was meaningless unless it was coupled with the mention of "just and favourable working conditions", which would guarantee the worker and his family a decent standard of living. The right to work had to be accompanied by the freedom of choice with respect to work. That was the reason why the United States delegation wished to join the first paragraph of article 23, dealing with the right to work, to article 24, dealing with conditions of work. It should also be borne in mind that the right to work, without qualifications might mean very different things, some of which might be incompatible with other articles of the Declaration. In the opinion of the United States delegation, the right to work, in this Declaration, meant the right of the individual to benefit from conditions under which those who were able and willing to work would have the possibility of doing useful work, including independent work, as well as the right to full employment and to further the development of production and of purchasing power.

The realization of those objectives meant more to individuals in the United States than any state guarantee of full employment. That was why the United States considered the text submitted by India and the United Kingdom to be the best if amended by the addition of the right to set up and join trade unions. It was, moreover, in conformity with the text adopted in the Declaration of Bogota.

Mr. CHANG (China) thought that the Chinese text would have to be considered subsequently, for it embodied a different conception of how the Declaration should be set out.

Mr. WILSON (United Kingdom), in the interests of greater clarity, proposed the following amendment to the United Kingdom text: "Everyone has the right to work and to just and favourable working conditions." Thus, the two ideas of the right to work and working conditions would be clearly separated.

/Mrs. LEDON

Mrs. LEDON (Commission on the Status of Women) declared that during the last meetings of the Commission on the Status of Women, a resolution had been drafted for submission to the Economic and Social Council and addressed to Member States of the United Nations, requesting them to take a formal stand on the principle of equal pay for equal work and equal working conditions for men and women workers. She drew the attention of the members of the Commission on Human Rights to this fact so that the latter should, as far as possible, retain the words "equal pay for equal work", contained in the second paragraph of article 24. Even if that assertion were repetitious, given the word "Everyone" in the first paragraph, the idea was of such fundamental importance that it should be stated explicitly.

Miss SENDER (American Federation of Labor) understood the Commission's desire to shorten the articles whenever possible but she urged the Commission not to omit ensuring the right of every person to an opportunity of doing useful work. Everyone had the right to ask the community to take steps to avoid unemployment. Article 24 which mentioned the right to a decent standard of living aimed at the alleviation of the consequences of unemployment and not at the prevention of unemployment itself. Therefore, the idea stated in paragraph 3 of article 24 should not be left aside. It could be expressed as a right of the individual instead of the duty of a Government, by saying, for instance, "everyone has the right to ask the State to...", but it must not be omitted.

Mr. CASSIN (France) stressed that it was the same desire for brevity which had caused France to combine in one article the two articles adopted at the second session of the Commission relating respectively to work and unemployment and to remuneration.

Six essential ideas had been brought out by the discussion: 1) the right to work, 2) the right to just and favourable working conditions, 3) the right to a decent standard of living for the worker and his family,

4) equal working conditions for men and women workers, 5) the right to join a trade union and 6) the right to fight unemployment.

Mr. Cassin expressed the conviction that the maximum number of ideas could be expressed in a minimum of words, but if the Commission retained only one or two ideas, it might be accused of failing to carry out a part of its work. Recently acquired rights, such as the right to work, should be stated more explicitly than rights recognized for centuries, such as the right to life. As to the prevention of unemployment, the French text mentioned States, in the plural, for unemployment was not a purely national question. International organizations such as the Commission for Full Employment existed to deal with the unemployment question, and while it would be useless to list them in the Declaration, it was quite impossible to pretend not to see the problem. Every individual had the right to expect the various organs of society to fight against unemployment, each at its own level.

Thus, there were six different ideas to be dealt with, each of which could, perhaps, be voted upon separately.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) stated that his delegation was particularly interested in the articles which concerned the right to work, the right to rest, etc. Only a very few documents in existence at the present time mentioned those rights. The question of work and employment was on a totally different plane nowadays than during the nineteenth century. Unemployment had become an every-day phenomenon, affecting as many as twenty million people in the world at any given moment. To gloss over that problem would mean disregarding one of the main anxieties of the man in the street. In that connection, attention should be paid to the statements of trade union representatives. Mr. Klekovkin could not understand that some members opposed the mention of the State as responsible for the prevention of unemployment. After all, it was the State which had to take the necessary measures on behalf of the community or of society. In the Ukraine, the new generation was unacquainted with the fear of unemployment. The Ukrainian

constitution affirmed the right to work and the organization of the soviet economy guaranteed it. Capitalist States could not offer the same guarantees because the control of their national economic system was not in their hands, but even they could take certain effective measures against unemployment.

Freedom of thought was undoubtedly a fundamental freedom; but it could exist only if based on economic freedom. He shared the Chairman's point of view, that men in need were not free men. In that respect, the Union of Soviet Socialist Republics could offer an example to all. Before 1917, the majority of the population was subjugated by the fear of poverty and, as a consequence, was illiterate; no intellectual freedom existed. Within the last thirty years, when it became clear that all freedoms depended on economic freedom, intellectual liberty had developed. Now that they were able to satisfy their hunger, millions of people enjoyed intellectual freedom. That spiritual resurrection evolved from the economic prosperity which had facilitated the spreading of culture among workers.

Work was not a painful obligation, but a mutual emulation whereby each wanted to out-do his neighbour. The reconstruction of Ukrainian industry was proof of the constructive and progressive character of that concept of work.

Thus, articles 23 and 24 were of great importance and should bring to the peoples which awaited them an answer to their preoccupations and a materialization of their hopes. The Ukrainian representative could not accept the Chinese draft, which failed to take into consideration the actual evolution of events; he considered that the draft proposed by the representative of France or that worked out at the second session of the Commission most effectively guaranteed the right to work.

Mr. HOOD (Australia) said that he was in full agreement with most of the ideas expressed by the representative of France. If the article were to keep its proper importance, it should include not only five or six ideas but others as well, such as well-being and public health, the right to education
/and to culture.

and to culture. These ideas could, however, be grouped in three or four sections, which would have to be arranged harmoniously in a final concise text. His delegation was ready to take its share in that work, but it was necessary beforehand that each member should express his opinion on the matter. A sub-committee could then combine all the suggestions in three or four groups.

Mrs. MEHTA (India) thought that the text drawn up at the Commission second session (document E/CN.4/95) was too detailed. The Commission's task was to define the rights of individuals and not the duties of the community or of the State. The rights of individuals and the duties of the State were linked, and it was not necessary to include the latter in each article for they were implied in the statement of the former.

She agreed to the modification proposed by the United Kingdom representative to their joint text; thus amended, the text would take account of the concern of the representative of the American Federation of Labor, for if each individual had the right to work, it was logical that someone had the obligation to guarantee that he had work. The statement concerning just and favourable working conditions covered the provision of article 24, relating to remuneration: unless the latter were satisfactory, the working conditions would not be just or favourable. The second article suggested by her delegation and that of the United Kingdom replacing articles 24 and 26 similarly covered all the details of those articles while preserving their substance intact.

As to the remarks made by the representative of the Commission on the Status of Women, Mrs. Mehta did not think it necessary to use the words "and women", since the word "everyone" was all-inclusive. She suggested the addition of the words "mothers and children have the right to special protection" after the joint United Kingdom-India article, replacing articles 24 and 26.

/Mr. WILSON

Mr. WILSON (United Kingdom) said that the Indian and United Kingdom delegations had attempted to do exactly what was being urged by the Australian representative, i.e., they had summarized in five articles the principle rights set forth in articles 23 to 30.

The five rights were the following: 1) the right to work, 2) the right to satisfactory conditions of work, 3) the right to an adequate standard of living, 4) the right to limitations on working hours and to rest, 5) the right to participate in the cultural life of the community.

Those five points constituted the essential principles which the Commission wished to see included in the Declaration, with the exception of the concept of the State's responsibility for measures to combat unemployment, which had been omitted for reasons he would explain later.

In referring again to each of the six points which Mr. Cassin wished to see included in the Declaration, Mr. Wilson observed that the first three points relating respectively to the right to work, the right to satisfactory conditions of work and the right to an adequate standard of living were also included in the text proposed by India and the United Kingdom. The fourth point, concerning the equality of women in respect of work, had been omitted for the reasons given by the Indian representative. The fifth point, concerning the right to join a trade union, had been regarded as already covered in article 19 which guaranteed the right of association. The sixth point, viz. the State's responsibility in respect of work, had been omitted, it being presumed that the "right to work" implied an obligation to provide work. Thus, all the points which it had been considered desirable to include in the Declaration were already either explicitly or implicitly included.

He was not unaware of the fact that, in the last resort, the responsibility in respect of unemployment would lie with the State. In view, however, of the existence of different economic systems, it did not seem appropriate to include that concept in the Declaration in too rigid a form.

/ Mr. Wilson

Mr. Wilson went on to point out that the Declaration set forth a series of personal rights, such as the right to life, to freedom of thought and of expression, to marriage and so on. Although the protection of those rights was the responsibility of the State, in the first instance, it had not been thought necessary to state that fact expressly. Why then affirm it in the case of unemployment, when only one part of the responsibility rested with the State?

The United Kingdom representative said that it was for those who benefited from the existence of rights to make good those rights, to fight for their application and to demand of their governments the rights which the latter recognized as belonging to them. In imposing an express obligation upon the State, the Commission would only be taking a theoretical step which would not change the practical result.

In conclusion, Mr. Wilson said that the Declaration was destined to be given a large amount of publicity and had to be drafted clearly and precisely so as to be understandable to the whole world. The Indian and United Kingdom delegations had attempted to do that.

Mr. FONTAINA (Uruguay) asked if the Commission was discussing the right to work stricto sensu, that is, from the point of view of the manual worker, for example, or the factory worker, or the right to work in the larger sense, from the point of view of all workers, including factory directors, engineers etc. and intellectuals in general. It was obvious that the Commission would want the rights of all workers, without distinction, to be protected and if so, the original text put forward by the United Kingdom and India was preferable to that which restricted the scope of the article to too great an extent.

As regards the State's responsibility in respect of unemployment, he agreed with the United Kingdom representative, in recognizing that one could

not delegate to the State all the functions and responsibilities of the community. To do that, would be to relieve employers and the organizations concerned of all responsibility.

The right to join a trade union was implicitly provided for in article 19 which guaranteed freedom of association. If, nevertheless, it was considered desirable to specifically mention that right, it had to be made clear that it included not only the right to join but also the right to leave a trade union. It was a question of protecting the worker himself from the hold which some trade unions could have over him in regard to political and economic affiliations with which he was not in sympathy.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) felt that the text put forward by the Indian and United Kingdom delegations was completely inadequate. Only one concept, that of the right to work, had been maintained; the rest of the original text had been disregarded.

The question of the State's responsibility was one, among others, of fundamental importance, because it was not sufficient to state a right, it had to be guaranteed. He was surprised that whereas six months ago the Commission had unanimously agreed on the importance of that view, it had now completely reversed its position. Finally, he supported the Uruguayan representative in his statement that a large part of the responsibility rested with the employers.

Mr. LEBEAU (Belgium) approved the India-United Kingdom amendment in all respects, save one. It was an excellent draft and preferable to that of the French delegation because of its conciseness.

The principle of equality between the sexes had been stated many times in the Declaration and therefore, it was unnecessary to mention it again.

/He

He did not share the views of preceding speakers on the question of the right to join a trade union. It was true that article 19 guaranteed freedom of association, but the concept of the right to join a trade union was sufficiently new to deserve special mention.

As regards the question of the State's responsibility in respect of unemployment, he felt that article 24 as amended was sufficient to meet the requirements of the case. It was obvious that the intervention of the State would always be needed, in the final instance, but, given the fact that the degree and the time of that intervention would vary depending on the country, it would be better to make no definite reference to it.

In conclusion, he accepted the entire text proposed by India and the United Kingdom, subject to mention being made of freedom of association.

Mrs. LEDGER (Commission on the Status of Women) thanked the Indian representative for her proposal that paragraph 2 of article 26, concerning the special protection of the rights of mothers and children, should be inserted at the end of article 23.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that the Commission was engaged in defining rights without providing any means to guarantee their application.

The India-United Kingdom amendment reduced the rights of workers to nothing; it contained nothing concrete which could give satisfaction to the millions of workers who were hoping for the betterment of their lot.

He seconded the ideas put forward by Mr. Cassin and hoped that he would not withdraw them.

In referring to the responsibility of the State, he praised the courage which Mr. Fontaine had shown in stating that capital should share that responsibility. Who, finally, however, if not the State, would guarantee those rights and see that effect was given to them? It was essential to specify clearly who would assume the responsibility for giving effect to the rights set forth in the Declaration.

/He

He pointed out that both the Geneva text and that proposed by the French delegation guaranteed workers a minimum wage. That was a particularly important point when it was remembered, for example, how absurdly low wage rates were in colonial territories. Of course in fixing wages, the worker's capacity had to be taken into consideration.

The question of social security was also of great importance in view of the risks and dangers undergone by workers, especially by those employed in mines.

The right to join a trade union also required specific mention. He did not understand how, in a well organized trade union system which lived up to its ideals, a worker needed to be protected against his own union, the precise function of which was to protect his interests.

Finally, there was the question of equal pay for equal work for both sexes. It could not be left to the discretion of the employer who was only too ready to hire cheap labour when he could. It was necessary, therefore, to guarantee that right explicitly.

Mr. LOPEZ (Philippines) said that his delegation attached particular importance to the social and economic rights mentioned in the articles under discussion. The Philippine delegation had taken an active part in the drafting of article 23 during the Geneva session. It could, of course, be re-drafted if the Commission considered it necessary, but without either shortening or lengthening it to excess. The fact that the existence of the rights in question had only recently been recognized could be used as an argument in favour of conciseness, as pointed out by the United Kingdom representative. On the other hand, it could also be argued that that fact necessitated their being even more fully defined than rights which had been recognized for a long time. The right to protection against unemployment had to be mentioned explicitly.

Excessive reference, in the Declaration, to the duties of the State, should be avoided. Article 2 dealt with the duties of the individual in relation to the community and it would be appropriate, therefore, somewhere in the Declaration, to mention specifically the duties of society or the community to its members so as to establish a fair balance between the statement of rights and duties.

Article 23 dealt with an obligation which rested not only with the State but with the community as a whole. He proposed, therefore, that the following second paragraph should be inserted in article 23:

"The enjoyment of those rights should be ensured by such measures as would create the possibility for useful work and prevent unemployment."

The new paragraph represented a compromise between the India-United Kingdom text and that put forward by the French delegation.

Mr. HOOD (Australia) Proposed that the following text should replace articles 23, 24, and 25:

"Everyone has the right to useful and remunerative work;

"Everyone has the right to just and fair working conditions and to reasonable limitations on working hours;

"Everyone is free to join trade unions for the protection of his interests."

Mr. Van ISTENDAEL (International Federation of Christian Trade Unions) said that in spite of the Commission's anxiety to be brief and the general character of the principles set forth in the Declaration, it had to be remembered that this was a question of protecting rights that had only recently been recognized, it would be useful, therefore, to state them explicitly.

Those rights were the following: 1) the right to work; 2) freedom to join trade union; 3) the right to protection against unemployment; 4) the right to social security; 5) equality between workers; 6) the right to a

/standard

standard of living that would permit a person to live with decency and dignity; 7) the right to limitations on working hours and to rest; 8) the right to participate in the cultural life of the community.

The millions of workers who had placed their hopes in the Declaration would not understand how it could be either incomplete or ambiguous.

Mr. MALIK (Lebanon), Rapporteur, remarked that until now the Commission had discussed and examined the rights of the individual as such; the right to life, freedom of thought, freedom to come and go, to marriage, and so on. Now it was engaged in discussing the rights of the individual as a member of society. It was desirable, therefore, to insert somewhere in the Declaration a statement calling attention to the need for establishing the kind of economic and social conditions that would guarantee those rights. What was necessary was to define the standard of an ideal society in which the individual could develop and in which his rights could be guaranteed. Such a statement could be inserted in the preamble or could stand as a separate article.

He preferred to make no specific reference to the State's obligation in respect of measures to combat unemployment and expressed approval of the India-United Kingdom text as amended by the United States representative.

He proposed that a drafting committee should be appointed to examine fully the various proposals which had been made.

Mr. LEBEAU (Belgium) seconded the proposal.

The CHAIRMAN put to the vote the proposal to refer the question to a drafting committee.

The proposal was adopted by 7 votes to 1, with 8 abstentions.

/The CHAIRMAN

The CHAIRMAN appointed a sub-committee, composed of the representatives of Australia, France, India, the Philippines, the United Kingdom, the United States, and the USSR and instructed it to draft a compromise text, taking into consideration all the ideas which had been expressed.

The meeting rose at 5.30 p.m.