

**ECONOMIC  
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 COMMISSION ON HUMAN RIGHTS
 

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## SUMMARY RECORD OF THE FIFTY-NINTH MEETING

 Held at Lake Success, New York  
Friday, 4 June 1948, at 10.45 a.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Rapporteur:</u>	Mr. MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. LEBEAU	Belgium
	Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. CHANG	China
	Mr. LOUTFI	Egypt
	Mr. CASSIN	France
	Mrs. MERTA	India
	Mr. QUIJANA	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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Representatives of Specialized Agencies:

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

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Consultants from Non-Governmental Organizations:

Miss SENDER	American Federation of Labor
Mr. VANISTENDAEL	International Federation of Christian Trade Unions
Miss STUART	World Federation of United Nations Associations
Mr. NOLDE	Commission of the Churches on Interna- tional Affairs
Mr. BROTMAN	Coordinating Board of Jewish Organizations
Miss STRAHLER	International Committee of the Red Cross
Miss BURGESS	International Federation of Business and Professional Women.
Miss ROBB	Liaison Committee of Women's Interna- tional Organizations
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mr. BIENENFELD	World Jewish Congress

Secretariat:

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

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

Article 14

The CHAIRMAN, speaking as the representative of the United States, favoured the broader concept contained in the joint United Kingdom-India text (document E/CN.4/99).

Mr. CASSIN (France) pointed out that the various texts submitted could be roughly divided into two categories. The drafting committee had defined the fundamental right to own property with certain limitations (document E/CN.4/95). On the other hand, the Chinese, United Kingdom and French texts tended to circumvent a precise statement of the problem by setting forth the incontrovertible fact that no one could be arbitrarily deprived of the right to own property. As the representative of the USSR had pointed out, every government in every country could accept the definition in the light of its own laws regulating the right. Any attempt to reach a more definite statement must involve amendments giving rise to

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debate. The text proposed by the French delegation merely constituted an amendment to the form of the original Geneva draft. Mr. Cassin reserved the right to submit a substantive amendment after a vote had been taken on the other texts.

Mr. PAVLOV (Union of Soviet Socialist Republics) favoured adoption of the original Geneva draft, which stated that everyone had the right to own property in accordance with the laws of the State in which such property was situated. That formulation was especially desirable for it recognized that the national legislation of the various countries provided for various and different systems of property ownership. In order to clarify that point, Mr. Pavlov wished to amend the Geneva text by inserting, after the words "everyone has the right" the following phrase: "either alone (individually) or in community (association) with others".

His amendment was intended to make clear that the right to own property applied to various systems of ownership: government property, property owned by the community, co-operative and collective property. The amended article would also cover what was known in the USSR as personal ownership of property, which differed from private property, as understood in Western countries, because it was based on income earned from collective work. It would also include property owned by mutual organizations, corporations and various other groups in Western countries. Thus, no particular system of property ownership would be favoured by the article.

Mr. LOUTFI (Egypt), while he would have liked to support the Drafting Committee's text, said that he would accept the proposal of the representative of the USSR to retain the Geneva text, in the interest of unanimity.

In reply to a question from Mr. PAVLOV (Union of Soviet Socialist Republics), Mr. WILSON (United Kingdom) explained that the joint United

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Kingdom-Indian amendment (document E/CN.4/99) was intended as a substitute for the whole of article 14, and not for the second part alone.

Mr. Wilson pointed out that the United Kingdom amendment reduced the problem to its essence by assuring everyone freedom to enjoy ownership of property without interference. It took for granted the right guaranteed by all countries to own property and avoided specifying who could own such property, how much and what type of property could be owned, as those questions were adequately covered by regulations contained in domestic legislation. Nothing in the United Kingdom version precluded common ownership.

Mr. VILFAN (Yugoslavia) observed that an error had been made in translating the United Kingdom text into Russian: the words "unreasonable interference" read "illegal interference" in the Russian text.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic), supported by Mr. STEPANENKO (Byelorussian Soviet Socialist Republic), thought that the United Kingdom amendment lacked clarity and precision. As the problem of property ownership involved many controversial social and economic questions, the definition of that right should be quite specific to avoid multiple interpretations. Both the Drafting Committee's text and the United Kingdom amendment contained such debatable concepts as "decent living" in the former, and "unreasonable interference" in the latter.

The representatives of the Ukrainian and Byelorussian Soviet Socialist Republics expressed readiness to accept the United Kingdom draft as an amendment to the second part of the Geneva text. However, they strongly favoured the original Geneva draft, as amended by the representative of the USSR, and supported Mr. Pavlov's arguments in that connection.

The CHAIRMAN proposed that a drafting committee, composed of representatives of the United Kingdom, France, the Union of Soviet Socialist

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Republics and the United States, should work out an acceptable text for article 14.

Mr. CASSIN (France) thought that the Drafting Committee should have some directive from the Commission as guidance for its work. He found the United Kingdom amendment unsatisfactory from two points of view: it failed to state the right to property ownership incontrovertibly, and it raised the technical question of determining what constituted "unreasonable interference". Mr. Cassin therefore felt that the Commission should proceed to vote on the United Kingdom text in order that the results of the vote might serve as an indication of the consensus of the Commission regarding the principle contained in article 14.

The CHAIRMAN observed that her suggestion for a drafting committee represented a compromise. If the United Kingdom text were put to a vote, it would follow logically that a vote should be taken on all the texts under discussion.

Mr. PAVLOV (Union of Soviet Socialist Republics) and Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) supported the Chairman's proposal for a drafting committee to reconcile the various drafts. Mr. Pavlov would be willing to accept the United Kingdom text as a substitute for the second part of the Geneva text, provided the word "unreasonable" were changed to "illegal".

After a brief discussion, Mr. CASSIN (France) consented to the establishment of a drafting committee.

Article 14 was referred to the Drafting Committee.

Article 15

/The CHAIRMAN

The CHAIRMAN read the various texts submitted for the article and observed that the French draft followed most closely the original Geneva text.

Miss SENDER (American Federation of Labor) stressed the importance of finding a satisfactory solution to the problem of statelessness, in connection with the right to a nationality. While the joint United Kingdom-Indian amendment did ensure some protection of that right in the future, it did not help to solve the urgent problem of stateless persons whose numbers had increased considerably as an aftermath of the war. Miss Sender favoured the French text because it specifically stated that the United Nations took responsibility for the protection of persons who had been deprived of their nationality. Although the Economic and Social Council was studying the question of drawing up a special convention on statelessness, the Declaration of Human Rights should contain a statement of general principle affecting the problem.

The CHAIRMAN recalled the terms of the resolution adopted by the Economic and Social Council at its sixth session (Resolution 116 (VI) D) requesting the Secretary-General, in consultation with interested commissions and specialized agencies "...to make recommendations... on the interim measures which might be taken by the United Nations..." and "...to submit recommendations to the Council as to the desirability of concluding a further convention..." on stateless persons.

Mr. CHANG (China) supported the United Kingdom text of article 15 (document E/CN.4/99).

Mr. STONE (International Refugee Organization) felt that the Geneva text or that proposed by the French representative was worthy of consideration. The Drafting Committee's text merely dealt with the right to nationality.

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The principle of international protection for stateless people was accepted by the United Nations when it created the International Refugee Organization, and therefore the Declaration on Human Rights should contain a statement recognizing the fundamental need of protection of thousands of people who were stateless either in law or in fact. Such a statement in the Declaration would not necessarily impose any specific resulting obligation on the United Nations itself, but would leave it free to entrust that task to a specialized agency.

The CHAIRMAN, speaking as the representative of the United States of America, said that her delegation would vote in favour of the joint text submitted by the delegations of India and of the United Kingdom. The United States delegation believed that it was preferable to guard against arbitrary deprivation of nationality rather than to attempt to provide that everyone had the right to a nationality, as was done in the French proposal and in the Geneva text. It considered that the Declaration was not the place to say that everyone had a right to a nationality and felt that that was a matter for consideration by an international conference on nationality.

Mr. FONTAINA (Uruguay) agreed with the remarks of the United States representative. Referring to Article 19 of the Bogota Convention, he considered that Article 15 of the Declaration on Human Rights should contain a similar provision and suggested that the joint proposal of the Indian and United Kingdom delegations might be amended in that sense.

Mr. LOUFFI (Egypt) said the question of nationality was a very complicated one which could only be settled by conventions between States. The India-United Kingdom amendment referred to one phase of the question only, that of the arbitrary deprivation of nationality. He could not support the amendment to that proposal suggested by the representative of

/Uruguay

Uruguay as it would raise too many difficulties. The second sentence of the Geneva text, beginning, "All persons who do not enjoy...", should be retained.

Mr. MALIK (Lebanon) could not support the India-United Kingdom proposal as it stood. Although it might be an improvement on the Geneva text and that of the Drafting Committee, it was too brief. The Article under consideration should mention three fundamental ideas: (1) that no one could be arbitrarily deprived of his nationality; (2) that the United Nations was concerned with the question of the stateless person, and (3) that a person had the right, if he so wished, to change his nationality.

He felt that the second and third sentences of the French proposal could be combined, and mention might be made of the provision contained in Article 19 of the Bogota Convention, as suggested by the representative of Uruguay.

Mr. CASSIN (France) said that to include in the Declaration provisions which infringed upon the sovereign rights of States would be exceeding the Commission's terms of reference. Large numbers of human beings without nationality, rights or obligations were migrating unhappily from country to country. A human being had a number of rights, one of them being the right to be attached to a national group; and the Declaration should contain a provision covering that right.

The Economic and Social Council had already recognized its duty in that field and had set up an organization for the protection of stateless people. The Commission would be taking a backward step if it neglected that work. He considered that the question of the change of nationality raised by the representative of Lebanon had to a great extent been settled by Article 9 of the Geneva draft. The French Government had not submitted any amendments to that Article and would not object if the Commission added

/the text



the text of Article 9 to that of Article 15. The India-United Kingdom text covered a very small part of the whole problem, and referred only briefly to the arbitrary deprivation of nationality. Mr. Cassin emphasized the hardships suffered by a woman who lost her own nationality through marriage with a citizen of a foreign state but did not acquire that of her husband. He pointed out that the French Government was attempting, through legislation, to keep such marriages from becoming the cause of statelessness.

It was not sufficient for the Declaration to say that no one must be deprived of his nationality. The United Nations must accept responsibility and protect those who did not enjoy the protection of any government.

Replying to the CHAIRMAN, Mr. CASSIN (France) agreed to the insertion of the amendment suggested by the representative of Egypt in the French proposal.

Mr. WILSON (United Kingdom) said that questions of nationality were among the most complicated to be dealt with by the Commission. Every government had hitherto had the right to say whom it would and would not regard as its citizens, and to whom it would or would not extend its protection.

There was more than one way of dealing with the problem of nationality, and he considered that the right method had been adopted by the Commission at Geneva when it recognized the existence of the problem of statelessness and decided to deal with it by sending a resolution to the Economic and Social Council. Action had been taken by the Council, and studies were at present being carried out to see what positive steps could be taken to relieve all the problems arising from statelessness.

He shared the views of the representative of Lebanon in the matter, but considered that it would not help matters to refer to the United Nations in Article 15 of the Declaration.

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There was some ambiguity in the use of the word "protect" in the French and Geneva texts as that word could have two meanings, one of a general nature and the other a highly technical one.

States should not arbitrarily refuse to grant their protection to people who were their citizens. That was the essence of the very complicated and technical matter under consideration, and it was for that reason that the delegations of India and of the United Kingdom felt that the statement contained in their amendment was as far as the Commission could go in a declaration of general principles which were to be of significance for a long time to come.

He agreed with the suggestion made by the representative of Uruguay that the words "or denied the right to change his nationality" should be added to the India-United Kingdom amendment.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that the India-United Kingdom text was more satisfactory than that suggested by the French delegation. The latter referred to obligations of the United Nations regarding nationality problems, and he considered that the Declaration on Human Rights should not contain such a statement as it led to a limitation of the rights and sovereignty of States. He would vote for the India-United Kingdom text if it were amended to read as follows:

"No one shall be arbitrarily deprived of his nationality except in cases and procedures determined by national legislation."

If the representatives of India and of the United Kingdom were unable to accept that amendment to the text they had suggested he would propose it as a separate motion.

Mr. WILSON (United Kingdom) was unable to accept the amendment proposed by the USSR representative for the reason that it was possible for a state to pass laws laying down, for instance, that persons belonging

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to a certain race or political party should be deprived of their nationality. That would be perfectly legal but entirely arbitrary. He would have to insist on the retention of the word "arbitrarily", and would vote against the amendment suggested by the USSR representative.

Mr. MALIK (Lebanon) said that, with the acceptance by the delegations of India and of the United Kingdom of the amendment proposed by the representative of Uruguay, two fundamental ideas had been taken care of, namely, that no one should be arbitrarily deprived of his nationality or of the right to change his nationality. He agreed with the remarks of the United Kingdom representative, but considered some mention should be made in Article 15 of the responsibilities of the United Nations in connection with those persons who did not enjoy the protection of any Government. He suggested that the wording of the second sentence of Article 15 should be amended to read: "All persons who do not enjoy the protection of any Government shall be the concern of the United Nations." The word "concern" was used in the Constitution of the International Refugee Organization, and he felt that the wording he had suggested would meet all points of view.

Mr. LOUTFI (Egypt) and Mr. CASSIN (France) supported the amendment suggested by the representative of Lebanon.

After a brief discussion, the CHAIRMAN put to the vote the following text suggested by the representative of Egypt, as amended by the representative of Lebanon.

"All persons who do not enjoy the protection of any Government shall be the concern of the United Nations."

The amendment was rejected by nine votes to six with one abstention.

/The CHAIRMAN

The CHAIRMAN put to the vote the amendment suggested by the French delegation, i.e. "It is the duty of the United Nations and the Member States to prevent statelessness."

The amendment was rejected by nine votes to three with four abstentions.

The amendment to the India-United Kingdom text suggested by the representative of the Union of Soviet Socialist Republics was then put to the vote.

The amendment was rejected by ten votes to four with two abstentions.

The CHAIRMAN put to the vote the India-United Kingdom amendment to Article 15 together with the amendment to that text suggested by the Uruguayan representative as follows:

"No one shall be arbitrarily deprived of his nationality, or denied the right to change his nationality."

The amendment was adopted by ten votes to three with three abstentions.

Article 15, as amended, was adopted.

The meeting rose at 1.25 p.m.