

**United Nations**  
**ECONOMIC**  
**AND**  
**SOCIAL COUNCIL**

**Nations Unies**  
**CONSEIL**  
**ECONOMIQUE**  
**ET SOCIAL**

UNRESTRICTED  
E/CN.4/SR.52  
8 June 1948  
ENGLISH  
ORIGINAL: FRENCH

---

COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE FIFTY-SECOND MEETING

Lake Success, New York  
Friday, 28 May 1948 at 2.30 p.m.

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

Rapporteur: Dr. AZKOUL Lebanon

Members:

Mr. HOOD	Australia
Mr. LEBEAU	Belgium
Mr. STEPANENKO	Byelorussian Soviet Socialist Republic
Mr. SANTA CRUZ	Chile
Mr. CHANG	China
Mr. LOUFTI	Egypt
Mr. CASSIN	France
Mrs. MEHTA	India
Mr. QUIJANO	Panama
Mr. LOPEZ	Philippines
Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
Mr. PAVLOV	Union of Soviet Socialist Republics
Mr. WILSON	United Kingdom
Mr. MCRA	Uruguay
Mr. VILFAN	Yugoslavia

Also present: Mrs. LEDON Commission on the Status of Women

Representative of a Specialized Agency:  
Mr. R. W. COX International Labour Organization

Non-Governmental Organizations:  
Miss Toni SENDER American Federation of Labor  
Mr. van ISTENDAEL World Federation of Christian Trade Unions

Secretariat:  
Mr. J. HUMPHREY Director, Human Rights Division  
Mr. E. LAWSON Secretary of the Commission

Any corrections of this record should be submitted in writing, in either of the working languages (English or French), and within twenty-four hours, to Mr. E. Delavenay, Director, Official Records Division, Room CC-119, Lake Success. Corrections should be accompanied by or incorporated in a letter, on headed notepaper, bearing the appropriate symbol number and enclosed in an envelope marked "Urgent". Corrections can be dealt with more speedily by the services concerned if delegations will be good enough also to incorporate them in a mimeographed copy of the record.

CONTINUATION OF THE CONSIDERATION OF THE DRAFT INTERNATIONAL DECLARATION  
ON HUMAN RIGHTS (DOCUMENT E/CN.4/95 Annex A)

Article 2

The CHAIRMAN remarked that the Drafting Sub-Committee wished the two paragraphs of Article 2 (cf. document E/CN.4/111) put to the vote separately, as only paragraph 1 had obtained unanimous support. That draft was an amendment to Article 2 in document E/CN.4/95.

Mr. CASSIN (France) remarked that, if paragraph 1 as drafted by the Sub-Committee were accepted, he was prepared to withdraw his own amendment (document E/CN.4/82 Add. 8).

The suggestion of Mr. SANTA CRUZ (Chile) that paragraph 1 as drafted by the Sub-Committee should be voted in two parts was accepted.

After an exchange of views, it was decided that the two paragraphs would be put to the vote in the order in which they appeared in the Sub-Committee's text.

The first part of paragraph 1, reading as follows: "Everyone has duties to the community" was adopted by twelve votes to none, with four abstentions.

The second part of paragraph 1, reading as follows: "which enables him freely to develop his personality" was adopted by ten votes to none, with six abstentions.

Mr. PAVLOV (Union of Soviet Socialist Republics) proposed that the words "and democratic State" should be added at the end of paragraph 2. The phrase "in a democratic society" appeared too vague; it was necessary to make a reference to the respect of the law as well as public morals.

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

/Mr. CASSIN

Mr. CASSIN (France) observed that the rejection of the USSR amendment did not mean rejection of its idea. The concept of respect of the law was included in the final phrase of paragraph 2, as general welfare was inconceivable without it.

Paragraph 2 was adopted by twelve votes to none, with four abstentions.

The whole of article 2 (as presented by the Sub-Committee) was adopted by twelve votes to none, with four abstentions.

Article 3, paragraph 1

Mr. CHANG (China) stated that, in view of the fact that the Commission apparently preferred to draft the Declaration in a more detailed form than the Chinese delegation had envisaged, he withdrew his amendment to the paragraph in question. (Cf. document E/CN.4/102)

Mr. SANTA CRUZ (Chile) felt that the text drafted by the Commission at its second session (document E/600) was good in that it repeated the language of Article 20 of the draft Covenant on Human Rights. The words "set forth in this Declaration" should, however, be deleted, so that the statement might be couched in an absolute form.

Mr. AZKOUL (Lebanon) supported the Chilean amendment. Mention of the Declaration would imply that discrimination was permitted with respect to rights not listed in the Declaration.

Mr. CASSIN (France) stated that he was prepared to withdraw the French amendment (document E/CN.4/82/Add.8).

He called attention to the dangers inherent in the Chilean amendment; it would oblige States to give equal rights to persons of different sexes or religions, which was frequently neither possible nor desirable, and consequently work against the very ideal which it pursued. Moreover, it was unlikely that Governments would accept the paragraph thus amended. He urged

/the Commission

the Commission not to attempt too much and not to interfere with either international law or accepted distinctions among groups of human beings.

Mr. AZKOUL (Lebanon) remarked that certain limitations were contained in article 2, to which all subsequent articles were subject; the purpose of those limitations was to permit the Commission to make general statements without fear of lapsing into absurdity. It was therefore clear, without further qualifications, that complete uniformity of rights and freedoms was not expected. Certain rights might not be mentioned expressly in the Declaration, but discrimination with respect to such rights should not be permitted.

Mr. WILSON (United Kingdom) agreed with the French representative. He feared that the Chilean amendment would generate confusion. The Commission was engaged in drawing up a Declaration of Human Rights and Fundamental Freedoms; its duty was to see that all those rights and freedoms should be mentioned.

Mr. PAVLOV (Union of Soviet Socialist Republics) supported the <sup>human</sup> remarks of the United Kingdom representative. If any fundamental/rights and freedoms had been left out of the Declaration, they should be named and discussed; if none had been, the Chilean amendment was unnecessary.

Mr. SANTA CRUZ (Chile) accepted in principle a suggestion of Mr. CASSIN (France) that the words "rights and freedoms set forth in this Declaration" should be replaced by "fundamental rights and freedoms recognized by the Charter."

Mr. WILSON (United Kingdom) and the CHAIRMAN felt that the new amendment might lead to even greater confusion. The Commission had already as was its duty, defined in the Declaration rights and freedoms not expressly

/mentioned

mentioned in the Charter. The proposed amendment represented a step backward.

The Chilean amendment was rejected by eleven votes to four, with one abstention.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) proposed the insertion of the concept "soslovic" (the approximate meaning of which is class or social status) after the words "property status". The distinction would have validity in a number of countries.

The Commission discussed briefly the meaning of the term "soslovic" for which no exact English equivalent could be found.

Mr. WILSON (United Kingdom) supported by the CHAIRMAN, suggested that the word "property" might be omitted, leaving the word "status", which would then be all-inclusive.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought that the word "property" should remain; it was most important that rich and poor should have the same rights. The Ukrainian amendment was directed against feudal class privileges, which were generally determined by birth rather than wealth.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republics) accepted the suggestion of Mr. CHANG (China) to insert the words "or other" between the words "property" and "status", which would meet the point he wished to make.

The Ukrainian amendment was adopted by thirteen votes to none, with one abstention.

Mr. AZKOUL (Lebanon) proposed that the word "office" which appeared in paragraph 2 should be removed from that paragraph and inserted in paragraph 1, after the words "property or other status".

/Mr. CASSIN

Mr. CASSIN (France) supported the proposal. He was opposed to the use of the words "regardless of office or status" in paragraph 2. All men were equal before the law; mentioning specific exceptions to be avoided merely weakened the statement.

Mr. VILFAN (Yugoslavia) felt that the word "office" belonged not in paragraph 1, which contained a list of grounds on which there should be no discrimination, but in paragraph 2, which was directed against unfair privileges.

Mr. CHANG (China) considered the addition of the word "office" unnecessary; the concept was covered by the words "property or other status"

Mr. AZIKOUL (Lebanon) said that, on the understanding that the Commission accepted the Chinese representative's interpretation, he would withdraw his amendment.

Article 3, paragraph 1 as amended, was approved unanimously.

Article 3, paragraph 2

The CHAIRMAN recalled that there was a United Kingdom and Indian amendment and a French amendment to paragraph 2 (documents E/CN.4/99 and E/CN.4/82/Add.8). All those delegations had stressed equality before the law and the need of equal protection against arbitrary discrimination; the French amendment also included protection against the incitement to such discrimination. Those three points would be put to the vote separately.

Speaking as the representative of the United States, she said that her delegation preferred the simpler wording contained in document E/CN.4/95.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) proposed a further amendment. He thought the word "arbitrary" in the original text (document E/CN.4/95) should be deleted.

/Mr. AZKOUL

Mr. AZKOUL (Lebanon) said that he saw no need in the United Kingdom and Indian amendment for the phrase "regardless of office or status". It was dangerous to mention only two exceptions; the statement would be stronger if the phrase were deleted.

Mr. CHANG (China) pointed out that those who wished to avoid use of that phrase could vote for the French amendment which did not contain it.

Mr. WILSON (United Kingdom) wished to maintain the phrase in his amendment. Persons holding high office or possessed of a certain social status were apt to consider themselves above the law; it was useful to state that they were not.

Mr. CASSIN (France) considered his amendment useful; he agreed with the Lebanese representative that citing only certain exceptions weakened the text.

Mr. LOPEZ (Philippines) hoped that the Lebanese amendment would be accepted; that would enable him to vote for the United Kingdom and Indian amendment, which he preferred to the French proposal because the words "All are equal before the law" sounded better in English than the corresponding phrase in the French proposal.

Mr. CHANG (China) supported the observations of the Philippine representative. In the interest of unanimity he was also ready to accept the deletion of the word "arbitrary".

Mr. WILSON (United Kingdom) and Mrs. MEHTA (India) accepted the Lebanese amendment. The word "All" with which the sentence began was sufficiently comprehensive.

The CHAIRMAN pointed out that in voting for the first sentence of the French amendment the Commission would be voting on form rather than on substance as the Lebanese amendment had eliminated the substantial

/difference

difference between the French and the United Kingdom and Indian amendments.

The first sentence of the French amendment reading as follows: "The equality of all men before the law is an inviolable rule" was rejected by seven votes to five with two abstentions.

The first part of the United Kingdom and Indian amendment, "all are equal before the law", was adopted by twelve votes to none, with three abstentions.

The CHAIRMAN asked for comments on the Ukrainian suggestion to delete the word "arbitrary" from the second part of the United Kingdom and Indian amendment which was worded as follows: "and are entitled to equal protection of the law against any arbitrary discrimination". She remarked that the United States delegation wished to maintain the word "arbitrary" because all discrimination was not necessarily invidious; thus, protection for reasons of old age would be of a useful and commendable type.

Mr. LOPEZ (Philippines) wondered whether the true intention of the Article would not be better expressed by the words "without any discrimination" than by "against any discrimination".

Mr. SANTA CRUZ (Chile) did not agree with the Philippine representative. The intention of the Article was to state that it was the duty of the law to protect men against any discrimination; the last part of that sentence in the draft adopted at the Second Session of the Commission proved that assertion. The Philippine amendment would alter the main idea of the article.

He agreed that the word "arbitrary" might be deleted. To avoid any misunderstanding of the meaning<sup>of</sup> "discrimination" as used in the Article, it might be advisable to refer to the first paragraph by changing the words "any arbitrary discrimination" to "such discrimination".

/Mr. AZKUL



Mr. AZKOUL (Lebanon) agreed with the Chilean representative.

Mr. CHANG (China) proposed to incorporate the Philippine suggestion in the Article so that the phrase would read "without and against any discrimination". The word "discrimination" did not apply to useful distinctions.

Mr. LEBEAU (Belgium) hoped that the vote would be taken on the English text, as the words "are entitled" had been improperly translated in the French text.

Mr. CASSIN (France) supported Mr. Lebeau's observation. He agreed that the word "arbitrary" might be omitted. There was no desire to suppress useful and necessary distinctions, but there appeared to be agreement that the term discrimination was used to mean invidious distinctions.

Mr. PAVLOV (Union of Soviet Socialist Republics) agreed with the Chinese and French representatives that there was no need for the word "arbitrary", as the word "discrimination", used alone, had a derogatory connotation. Discrimination which harmed men, was quite different from any distinctions established to assist certain groups which required special aid. He supported the Chinese proposal, which he thought should be put to the vote first, as being furthest removed from the original text.

The CHAIRMAN thought that the word "discrimination" required an adjective since alone it meant merely "distinction" and did not necessarily have invidious implications.

Mr. WILSON (United Kingdom) said that his delegation could not accept the deletion of the word "arbitrary", which would result in a statement contrary to the established practices and even to the constitutions of many countries. The phrase "against any discrimination" would imply that States had the duty to pass laws forbidding discrimination of any sort. But in certain circumstances discrimination was not reprehensible. For

example, in many countries the Prime Minister was chosen because he was the leader of a particular political party; yet surely there should be no law against discrimination on grounds of political opinion in such a case. Mr. Wilson therefore urged that the sentence should be made clear by the retention of the adjective "arbitrary" or, as an alternative, he proposed that the sentence should end after the words "protection of the law" in the second line.

Mr. KLEKOVKIN (Ukrainian Soviet Socialist Republic) still preferred the phrase "without or against any kind of discrimination". It was important to strengthen the text and there was no real cause for fear that distinctions such as the United Kingdom representative had pointed out would be interpreted as covered by the article.

Mr. SANTA CRUZ (Chile) did not think the sentence could be considered apart from its context. The first part of the article spoke of the rights and freedoms of everyone, without distinction as to race, sex, etc.; and the second part of the article clearly referred to the obligation to provide legal protection against discrimination in the enjoyment of those fundamental rights. There was therefore nothing to substantiate the possible interpretation suggested by the United Kingdom representative.

Mr. CASSIN (France) was impressed by the United Kingdom argument and proposed to meet the point raised by the addition of the words "in violation of this Declaration" after the words "any discrimination" in the second line.

Mr. LEBEAU (Belgium) agreed with the French representative.

The CHAIRMAN speaking as the United States representative thought the difficulty lay in the differences of opinion concerning the meaning of the word "discrimination". The adjective "arbitrary" would make clear what  
/was intended.

was intended. She did not, however, oppose the French suggestion.

Mr. WILSON (United Kingdom) was also willing to accept the French suggestion but he wondered whether the concept of "equal protection of the law" would be somewhat narrowed by the added reference to the rights laid down in the Declaration.

Mr. CHANG (China) agreed with the United Kingdom representative that the suggested addition might have the effect of limiting the idea of equal protection of the law and advised further consideration of the article. To say "against any discrimination in violation of this Declaration" was perhaps acceptable but was certainly less strong than the phrase "without or against any discrimination".

The meaning of "discrimination" did not present a problem, for the word was unquestionably used in a derogatory sense.

Mr. PAVLOV (Union of Soviet Socialist Republics) explained that the word "discrimination" in Russian clearly referred to unfair, unequal treatment. He urged that a vote should be taken on the phrase "without or against any discrimination".

Mr. LOPEZ (Philippines) shared the doubts of the United Kingdom and Chinese representatives concerning the French suggestion. Certain rights, such as the right to travel on railroads without discrimination, were not specifically mentioned in the Declaration but should certainly be covered.

Mr. Lopez accepted the Chinese modification of his amendment to the effect that the phrase would be "without or against any discrimination".

Mr. SANTA CRUZ (Chile) also agreed to the Chinese wording.

Mr. CASSIN (France) suggested that the words "in violation of the principles of this Declaration" would be broader than his original suggestion

/and would

and would meet the doubts expressed by some representatives.

Mr. WILSON (United Kingdom) pointed out that "without distinction" had already been mentioned in paragraph 1 of the article. The phrase "without or against any discrimination" seemed therefore an unnecessary repetition which should be avoided in the interest of brevity.

Mr. CHUNG (China) did not agree that the phrase was repetitious since in paragraph 2 of the article it was used to describe equal protection of the law.

Mr. WILSON (United Kingdom) observed that the "without distinction" of paragraph 1 covered all fundamental rights of which the right to equal protection of the law was merely the first.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought paragraph 1 referred to the opportunity of an individual to make use of his rights and freedoms whereas paragraph 2 dealt with the law. The second was not covered by the first and the phrase suggested by the Chinese representative was needed.

The CHAIRMAN put to the vote first the United Kingdom proposal to delete all the sentence after the words "equal protection of the law" as the amendment furthest removed from the present text.

The United Kingdom proposal was rejected by six votes to eight with one abstention.

The CHAIRMAN put to the vote the proposal to add "without and" before the word "against" in the second line.

The proposal was adopted by ten votes to four with two abstentions.

The CHAIRMAN put to the vote the proposal to delete the word "arbitrary".

/The proposal

The proposal was adopted by nine votes to six with one abstention.

Mr. CASSIN (France) proposed again the addition of the words "in violation of the principles of this Declaration" in the second line which seemed necessary now that the word "arbitrary" had been deleted.

Mr. WILSON (United Kingdom) feared that confusion would result if paragraph 2 spoke of the principles of the Declaration whereas paragraph 1 of the article had mentioned "rights and freedoms set forth in this Declaration".

Mr. PAVLOV (Union of Soviet Socialist Republics) and Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) thought that reference to violation of the present Declaration should be made only at the end of the sentence after the words "incitement to such discrimination".

Mr. CHANG (China) agreed with the United Kingdom representative that the French suggestion was unwise. He proposed that the sentence should end after the word "discrimination" in the second line.

Mr. PAVLOV (Union of Soviet Socialist Republics) thought it important specifically to condemn incitement to discrimination. Since discrimination itself was considered a crime, incitement to it was also criminal.

Mr. CASSIN (France) stressed that his proposal would in no way prejudice the reference to incitement to discrimination but was intended to allay the doubts of those representatives who had pointed out that the word "discrimination" had not legally an invidious meaning. There was every advantage in making the sentence clear.

Mr. WILSON (United Kingdom) expressed his delegation's objections to the words "against any incitement to discrimination". In the United Kingdom where human rights had certainly been respected as much as

/in any country.

in any country, there had never been any need for legislation to compel the authorities to take action against incitement to discrimination. The force of public opinion had always proved sufficient to deal with any attempts at such incitement. If the sentence included the phrase in question, the United Kingdom, feeling morally bound to carry out the provisions of the Declaration, would be obliged to pass laws which experience had shown were neither necessary nor desirable. It was inappropriate for the Commission to place such an obligation upon a country; each country should be allowed to decide for itself how, within the framework of its own social development, the principles laid down in the Declaration could best be put into effect.

Mr. LEBEAU (Belgium) associated himself with the remarks made by the United Kingdom representative and pointed out that in Belgium the question of incitement to discrimination had not arisen for the past century and there was therefore no need for laws against it. Any such laws would in fact run counter to the laws providing for freedom of speech and the press and would be possible in Belgium only to cover cases involving slander or libel. The Commission should not take a decision contrary to the United Nations principle of not causing fundamental changes in national laws.

Mr. SANTA CRUZ (Chile) did not think that a country in which incitement to discrimination was not a problem would be required to pass laws against it if the phrase in question were retained, especially since the article was being drafted for the Declaration on Human Rights and not for the Covenant. Unfortunately however, discrimination and incitement to discrimination did exist in some countries and for that reason the phrase was needed to ensure legal protection against such an evil.

Mr. CASSIN (France) strongly favoured the inclusion of the phrase in question.

The word "law" in the present case was equivalent to the French idea "le Droit d'un pays" and did not necessarily imply written or criminal law. Incitement to discrimination included organized conspiracies and was extremely serious. Even in a democracy citizens should not be allowed liberties which ran counter to the liberties of others. A definite statement of the principle of legal protection against incitement to discrimination should therefore be made.

Mr. MORA (Uruguay) supported the proposal to delete the phrase as the arguments presented had convinced him that it would infringe upon the freedom of expression and would therefore go beyond the intention of the article.

In reply to a point raised by Mr. PAVLOV (Union of Soviet Socialist Republics), Mr. WILSON (United Kingdom) agreed that Sir Oswald Mosley of the United Kingdom was guilty of anti-semitic propaganda. He stressed however that he had not intended to say that there was no incitement to discrimination in his country, but rather to show that the United Kingdom could best deal with such a situation in its own way.

Mr. Wilson asked the exact meaning of the phrase "equal protection of the law". Did it mean that there should be laws which should be applied equally or did it mean that all were equally entitled to whatever protection the law might provide? In the latter case his objections would be largely resolved.

Mr. CHANG (China) thought the meaning of the phrase was clear if it were read with the proper emphasis. Since it had already been accepted by a vote of the Commission it was no longer open to question.

Mr. LEBEAU (Belgium) upheld the right of the United Kingdom representative to ask what the majority had meant by the text it had voted to accept.

/Mr. LOPEZ

Mr. LOPEZ (Philippines) pointed out that the article in question was a part of the Declaration on Human Rights and was not therefore legally binding.

Mr. HOOD (Australia) gave his interpretation of "equal protection of the law". All individuals were entitled to equal treatment under whatever laws existed.

Mr. WILSON (United Kingdom) urged that the Commission should agree to such an interpretation of the phrase if that was in fact its meaning.

The CHAIRMAN thought that since a vote had been taken the Commission should not reconsider the phrase. Its meaning seemed clear especially in view of the explanation given.

Speaking as the United States representative, she supported the deletion of the words "against any incitement to discrimination", but was willing either to delete or retain the phrase "in violation of this Declaration". The United States opposed the provision against incitement to discrimination because it feared that such a provision might be used to justify the enactment of repressive measures, laws that would curtail freedom of speech and the press. In her own country, for example, members of the Democratic Party might be accused of arousing discrimination against members of the Republican Party or ardent feminists of encouraging discrimination against men in favour of women. Real liberties might be endangered by the inclusion of a statement that could be too broadly interpreted.

Mr. VILFIN (Yugoslavia) particularly cherished the tradition of free speech; but as one who had been <sup>enough</sup> unfortunate to live under the fascist regime in Italy where discrimination was practiced, he felt that incitement to discrimination should be explicitly forbidden.

/Mr. AZKOUL



Mr. AZKOUL (Lebanon) proposed the addition of the word "systematic" before the word "incitement".

The CHAIRMAN put to the vote the Lebanese proposal.

The Lebanese proposal was rejected by six votes to five, with five abstentions.

At the request of Mr. LEBEAU (Belgium), the CHAIRMAN put to the vote the first part of the deletion proposed by the Chinese representative.

The proposal to delete "or against any incitement to discrimination" was rejected by eight votes to seven, with one abstention.

Referring to the last part of his proposal, namely, the deletion of the words "in violation of this Declaration", Mr. CHANG (China) pointed out that the comma should be omitted as it affected the meaning of the text. Without the comma the phrase would apply only to the last part of the sentence and would be acceptable.

Mr. CASSIN (France) asked for a vote on his earlier proposal to insert the words "in violation of the principles of this Declaration" after "discrimination" in the second line. The discrimination spoken of there was much more serious and more frequently practised and there should be no doubt that reference to violation of the Declaration applied in that line as well as in the third line.

Mr. CHANG (China) thought the French amendment would unduly weaken the words "without and against any discrimination". The phrase at the end was sufficient.

The CHAIRMAN appointed a small drafting committee made up of the representatives of China, France and the United Kingdom to draw up a text, or alternative texts, on the basis of the discussion that had taken place.

The meeting rose at 6:20 p.m.