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COMMISSION ON HUMAN RIGHTS

Third Session

SUMMARY RECORD OF THE SIXTY-FIRST MEETING

Held at Lake Success, New York
on Monday, 7 June 1948 at 11.00 a.m.

<u>Chairman:</u>	Mrs. Franklin D. ROOSEVELT	United States of America
<u>Vice Chairmen:</u>	Mr. P.C. CHANG WU	China
	Mr. Rene CASSIN	France
<u>Rapporteur:</u>	Mr. Charles MALIK	Lebanon
<u>Members:</u>	Mr. HOOD	Australia
	Mr. STEYAERT	Belgium
	Mr. A. STEPANENKO	Byelorussian Soviet Socialist Republic
	Mr. Omar LOUTFI	Egypt
	Mrs. Hanse MEHTA	India
	Mr. M. de J. QUIJANO	Panama
	Mr. LOPEZ	Philippines
	Mr. KLEKOVKIN	Ukrainian Soviet Socialist Republic
	Mr. PAVLOV	Union of Soviet Socialist Republics
	Mr. WILSON	United Kingdom
	Mr. FONTAINE	Uruguay
	Mr. VILFAN	Yugoslavia
<u>Also present:</u>	Mrs. LEDON	Commission on the Status of Women
<u>Representative of a Specialized Agency:</u>	Mr. METALL	International Labour Organi- zation (ILO)

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Representatives of Non-governmental Organizations:

Miss SENDER	American Federation of Labor (AF of L)
Mr. A.J. VANISTENDAELE	International Federation of Christian Trade Unions (ICTU)
Miss DRENNAN	Catholic International Union for Social Service
Mr. NOLDE	Commission of the Churches on International Affairs
Mr. TANNER and Mr. BROTMAN	Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations.
Miss SCHAEFER	International Union of Catholic Women's Leagues

Secretariat:

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

CONTINUATION OF CONSIDERATION OF THE REPORT OF THE DRAFTING COMMITTEE
(Document E/CN.4/95).

Article 14

The CHAIRMAN read out the following text, prepared by the Drafting Sub-Committee, consisting of the representatives of France; the United States of America, the United Kingdom and the Union of Soviet Socialist Republics:

- "(1) Everyone has the right, alone as well as in association with others, to own property (in accordance with the laws of the country where the property is located).
- (2) No one shall be arbitrarily deprived of his property."

The Chairman pointed out that the clause in parentheses had not been unanimously accepted by the Sub-Committee, and would therefore be put to a separate vote.

Mr. PAVLOV (Union of Soviet Socialist Republics) felt that it was absolutely necessary to preserve the clause in parenthesis which emphasized the respect to the internal laws of each country. On the other

/hand

hand, he thought that in the second paragraph, the word "arbitrarily", which apparently lent itself to different interpretations, should, in order to avoid any misunderstanding, be followed by the phrase: "that is, contrary to the laws."

Mr. WILSON (United Kingdom) was in full agreement with the USSR representative on the purpose of the clause between parentheses, but he thought it unnecessary to re-affirm the obvious fact that property rights were subject to the laws of the country where the property was situated. That was true of every country in the world. Moreover, the general limitation clause of article 2 applied to all articles of the Declaration, including article 14.

The laws of most countries provided for the right to own immovable property, but did not regulate the ownership of movable property; consequently a limitation as general as the one proposed for article 14 was not fully justified, and the Commission should not retain it if it did not wish to establish a completely new legal theory of the ownership of movable property.

Mr. CASSIN (France) said that the original French proposal had provided that property ownership should be governed by the laws of the country where the property was situated. That qualification however, now seemed unnecessary, as the Drafting Sub-Committee's text introduced a new element by mentioning the two forms which property rights might take, thus ensuring the right of states to choose either form.

He could not entirely agree with Mr. Wilson's objections concerning the regulation of movable property, and pointed out that the limitation clause in parenthesis referred to property rights in general. In any case, that clause was unnecessary since it was covered by the provisions of article 2.

/In conclusion

In conclusion, he stressed that legality did not necessarily preclude arbitrary action. The Commission wanted to combat such action, even if it were given a legal form. That was the purport of the second paragraph of the Drafting Sub-Committee's text, which made it harmonize with the spirit of the Declaration.

The CHAIRMAN, as representative of the United States of America, supported the deletion of the words in parentheses since they might give rise to confusion; furthermore, they were unnecessary in view of the provisions of article 2.

Neither could the United States delegation accept the USSR amendment to paragraph 2 as it might be interpreted in such a way as to deprive people of their property both by arbitrary and legal means, and that was exactly what the Commission wished to prevent.

In reply to a question by Mr. AZKOUL (Lebanon), the CHAIRMAN explained that according to the Drafting Sub-Committee's text, everyone had a dual right to own property, either by himself, or in association with others, and these two forms of ownership were not mutually exclusive.

Mr. CASSIN (France) agreed that the French text was not as clear on that point as the English. He proposed the following French version:

"Toute personne a le droit de posséder des biens, aussi bien seule qu'en collectivité."

The Commission agreed to the new drafting of the French version, as proposed by Mr. Cassin.

Mr. PAVLOV (Union of Soviet Socialist Republics) recalled that the unanimously adopted Geneva text contained a reference to laws. He failed to understand why this reference should have raised doubts since then.

/He stressed

He stressed that the word "arbitrarily" referred to that which was against the law; the USSR amendment was therefore only intended to clarify that meaning. The Hitlerite concept which treated arbitrary action as legal would not be accepted by democratic states; it would be wronging them to think that they might include in their legislation any provisions making arbitrary action possible.

The USSR concept of property was different from that of other countries; exploitation of property was considered unjust and illegal in his country. The Union of Soviet Socialist Republics was not trying to impose its views upon other nations, but it attached great importance to the limitation clause between parentheses, for this clause would prevent the views of others from being imposed upon it.

Mr. STEYAERT (Belgium) stated that his delegation favoured the deletion of the words in parentheses for the same reasons as those brought forward by the representatives of the United Kingdom and of France.

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) said the discussion had convinced him of the weight of the USSR representative's arguments and proposals. It was not for the Commission to go into such details as the distinction between movable and immovable property. The Commission was only called upon to draft the article in such a way as to take into account the interests of all States, in a spirit of complete co-operation. It was essential to retain the clause between brackets if the principle of national sovereignty, laid down in the Charter, was to be respected.

He also supported Mr. Pavlov's interpretation of the word "arbitrary." The Commission should take the word "arbitrary" to mean everything which was not in conformity with the laws of democratic States, i.e., of States which traditionally defended the interests of the people.

/The clarification

The clarification called for by the USSR representative was intended only to avoid any misunderstandings on that point.

Mr. de QUIJANO (Paraguay) stated that the Commission's primary duty was to lay down the principles upon which the Declaration on Human Rights was to be based, without concerning itself with the obstacles to the realization of those principles, and on the assumption that the States would respect them. The Declaration of Human Rights should satisfy the aspirations of all the free men of the world.

The CHAIRMAN pointed out that in English the word "arbitrarily" had the connotation of injustice. The purpose of the Drafting Sub-Committee's text was to protect everyone from being unjustly deprived of his property. It was not impossible that governments might sometimes act arbitrarily, and it was that possibility that had to be prevented. The addition of the words "that is, contrary to the laws", would add nothing in that respect.

She would ask the Commission to decide on the retention of the words "in accordance with the laws of the country where the property is located", and would then put to the vote the first part of the first paragraph, the USSR amendment to the second paragraph, and finally the second paragraph of the Drafting Committee's text for article 14.

It was decided by eight votes to four, with two abstentions, not to retain the part of the sentence in parentheses.

The first paragraph was adopted by nine votes, with four abstentions.

The USSR amendment to the second paragraph was rejected by nine votes to four with one abstention.

The second paragraph was adopted by ten votes to four.

Article 14 as a whole was adopted by nine votes to four.

Article 19

The CHAIRMAN read the text proposed by the Drafting Committee for article 19 (document E/CN.4/95) and the alternative texts proposed by the Chinese delegation (document E/CN.4/102), the French delegation (document E/CN.4/88/add.8) and the United Kingdom and Indian delegations (document E/CN.4/99).

She asked the USSR representative whether the text proposed by his delegation, given in document E/CN.4/95, was designed to replace the Drafting Committee's text or to be added to it.

Mr. PAVLOV (Union of Soviet Socialist Republics) said his delegation had intended that the text should be substituted for that of the Drafting Committee; he would however be willing for it to be the second paragraph of article 19, if the Commission so desired.

The USSR delegation was chiefly concerned with ensuring, in article 19, that freedom of organization, assembly etc. should not be granted to organizations having a nazi, fascist or anti-democratic character. Past experience had given ample proof of the extent to which such freedom could be abused, if it were granted indiscriminately. Germany under Hitler had furnished a convincing example.

The CHAIRMAN called attention to an error in translation in document E/CN.4/95. The USSR draft should read: "In the interest of democracy the freedom of assembly, of public demonstration, of procession and of organization, of voluntary associations and unions shall be guaranteed by law, and all other organizations having a nazi, fascist or anti-democratic character, as well as their activity in whatever form, shall be forbidden under penalty of the law."

Speaking as representative of the United States of America, she said her delegation preferred the Indian and United Kingdom text, but with an

amendment consisting of the addition of the words: "including freedom to form and join trade union associations of his own choice."

Mr. CASSIN (France) said the French delegation withdrew its amendment in favour of the Drafting Committee's text, which seemed the best possible one, as it would allow freedom of assembly and association for organizations of very different sorts, including trade union associations, would retain the idea of freedom for international associations - a subject which had been discussed at length - and finally, would substantially meet the point raised by the USSR representative, namely that the right of assembly and to participate in associations was granted on condition that it would not be exercised for purposes or interests contrary to the aims of the proposed Declaration.

He thought the various proposed amendments would not improve the Drafting Committee's text. For his part, he would ask for only a small drafting correction in the French text, the last part of which should read: "en vue de favoriser, de défendre et de protéger des fins et des intérêts non contraires aux buts de la présente Déclaration."

Mr. CHANG (China) said that after studying the different proposals submitted, he wished to stress that his delegation's draft had the advantage of being both complete and concise.

The joint text proposed by the delegations of India and the United Kingdom added to the Chinese proposal a condition taken from the Drafting Committee's text: "for the promotion, defence and protection etc..." That rather long reservation did not seem necessary, for the general interest of the democratic societies was the constant aim of the proposed Declaration.

The Drafting Committee's text enumerated moreover the kinds of associations to which a person had a right to belong. But any enumeration was dangerous. It might be argued that religious associations, for example, had the same right to be included in article 19 as trade union organizations.

He did not see why the latter should be mentioned any more than the former. The purpose of article 19 should be to grant to every one freedom to organize or join any association provided only that that was done within the framework of democratic interests. The simplified draft advocated by the Chinese delegation best fulfilled that purpose.

Mr. FONTAINA (Uruguay) associated himself with the remarks made by the Chinese representative. The Commission's task was to establish the right of association and of assembly. Anything added to the declaration of that right would amount to a limitation.

The amendment proposed by the United States of America in particular, was a somewhat peculiar limitation, as it mentioned only one type of association.

The Uruguayan delegation would vote for the text proposed by the Chinese delegation.

Mr. LOPEZ (Philippines) said his delegation considered the Chinese text not only the simplest but the most satisfactory. There was no more reason to limit freedom of assembly and of association than religious freedom or freedom of expression; yet articles 17 and 18 contained no provisions of that sort. The only limitation which the Philippine delegation considered desirable was the general reservation contained in article 2 of the Declaration.

Mrs. MEHTA (India) was opposed to the United States amendment because she did not think it necessary to make special mention of trade unions, which were included among democratic associations covered by the article dealing with the right of organization and assembly.

She explained that the part of the sentence "for the promotion, etc" taken from the Drafting Committee's text had been adopted by her delegation in order to meet objections raised by the USSR representative. She realized, however, that the provisions of article 2 made that phrase unnecessary.

The Indian delegation would therefore vote for the simplified text proposed by the Chinese delegation.

Miss SENDER (American Federation of Labor) drew the attention of the representatives of China and Uruguay to the reasons for making a special mention of trade unions. The right of association had been guaranteed to man for one hundred and fifty years and was included in the first Declaration on Human Rights. At present that right not only had to be reaffirmed but had to be specifically granted to a new form of association, the trade union association, which had been in existence for only some sixty years.

Mr. VANISTENDAELE (World Federation of Christian Trade Unions) observed that the new Declaration on Human Rights should take into account the constant evolution of human society. A new type of organization had appeared during recent decades, the trade union organization; and to mention it in article 19 of the Declaration would mean granting it formal recognition.

As regards the amendment submitted by the United States, he stressed the importance of allowing every one to belong to the trade union association "of his own choice" in order to avoid all possible abuses.

Furthermore, he considered it unnecessary to mention the same reservations in each of the articles of the Declaration since, under article 2, no association could be formed if its interests and purposes were contrary to the aims of the Declaration.

Mr. STEYAERT (Belgium) pointed out that the English and French versions of the Drafting Committee's text might be interpreted differently. In his opinion, the French text seemed to refer only to trade union organizations, whether local, national or international, whereas the English text seemed to enumerate various types of organizations - local, national, international and trade unions.

/Mr. HOOD

Mr. HOOD (Australia) said the Drafting Committee had specifically mentioned trade union associations at the latter's request. In his opinion, the words "local", "national" and "international" referred to the trade union associations.

He recalled that the Indian and United Kingdom proposal had left out all mention of trade unions and had merely proclaimed the general principle of the freedom of association. The United States amendment had again taken up the idea of mentioning trade unions specifically. If the Commission thought that trade unions should be mentioned, it should go back either to the Geneva text or to the French draft. If, on the other hand, it was against any enumeration, the simple and concise Chinese text was the best.

Mr. WILSON (United Kingdom) also supported the Chinese draft.

Mr. LOPEZ (Philippines) said that the Drafting Committee's text for article 24 of the Declaration assured to every one the freedom to belong to trade unions to protect their interests. That provision fully accorded with the wishes of trade union associations.

The CHAIRMAN put to the vote the USSR draft for article 19 (see document E/CN.4/95).

The draft was rejected by nine votes to four with one abstention.

The CHAIRMAN then put to the vote the variant proposed by China (document E/CN.4/102).

The Chinese draft for article 19 was adopted by seven votes to four with three abstentions.

Article 20

The CHAIRMAN reminded the Commission that the Drafting Committee had decided not to examine the text of article 20 relating to petitions until articles on implementation had been drafted. The Committee felt that the article would be of little use as long as the means of implementing the Declaration had not been worked out. She asked the members of the Commission whether they agreed with the Drafting Committee's decision.

The Commission decided to postpone the examination of article 20 until articles on implementation had been drafted.

Articles 21 and 22

The CHAIRMAN read out the drafts proposed by the Drafting Committee for articles 21 and 22 (document E/CN.4/95) and the variants proposed by the French delegation (document E/CN.4/32/Add.8), the Indian and United Kingdom delegations (document E/CN.4/99) and the Chinese delegation (document E/CN.4/102).

Mr. CHANG (China) withdrew his amendment and said the Chinese delegation preferred and accepted the wording proposed by the Indian and United Kingdom delegations.

Speaking as the representative of the United States of America, the CHAIRMAN thought it must be through inadvertence that the list of grounds for discrimination in articles 21 and 22 differed from the grounds set forth in article 3 of the Declaration. She wished to draw the Commission's attention to this matter and stressed the necessity of bringing the list into line with article 3.

The United States delegation believed that in its present form the first sentence of the Drafting Committee's text could be interpreted as meaning that every one had the right to take an effective part in the government of his country only so long as his opinions coincided with those of the President,

/the Prime Minister

the Prime Minister or whoever might be in power, but that the right lapsed as soon as he disagreed.

The United States felt that the only way to guarantee a free government was to allow persons of opposing views to serve in different capacities in various public services, to guarantee the minority full freedom to have its own opinions, and, if such was the people's will, to become the majority. Those considerations were set forth in the second paragraph of the United States draft.

In order to secure agreement on a short and concise text, laying down only the broadest principles, the United States would support the Indian-United Kingdom draft, which was also supported by China. If, however, the Drafting Committee's text was put to the vote, the United States delegation reserved the right to offer as an amendment paragraph (b) of the text it had submitted to the Drafting Committee (see document E/CN.4/95).

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that though it was more comprehensive from a democratic point of view, the Geneva text adopted by the Drafting Committee did have some gaps. The list of possible reasons for discrimination did not include nationality, place of residence, property status and level of education. Yet, in several countries, certain persons could take no part in the government of their country for reasons of nationality, residence, property status or education. The list in paragraph 1 of the Drafting Committee's text should therefore be made complete.

As regards the elections provided for in the same paragraph, the USSR delegation felt that they should be universal and just. There was no need to provide for the elections to be periodic, for that was a detail which could well be omitted. It should be stated, however, that the elections must be direct as direct elections ensured the setting up of truly democratic organs. Nevertheless, if certain delegations objected, the USSR delegation was prepared not

to insist on the insertion of this principle in articles 21 and 22, as that might give rise to great difficulties in several countries. It would insist, however, on the principle of the universal character of elections and on the equal right of all to take part in them for that principle was acceptable to all.

Mr. WILSON (United Kingdom) asked Mr. Pavlov whether he wished, in connection with the enumeration of possible grounds for discrimination contained in articles 21 and 22, to add certain points to article 3, or, on the contrary, to delete some.

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that there was a difference between the enumerations in article 3 and in articles 21 and 22. Article 3 dealt with the full enjoyment of all the rights and freedoms set forth in the Declaration, while articles 21 and 22 dealt only with the right to vote and the way in which elections should be held. What was important in the latter case -- for instance, the right of every one to take part in elections without any discrimination based on education -- might be of no importance whatever for article 3. Similarly, length of residence played a very important part as regards the right to vote for, in several countries, part of the working population, such as the agricultural workers, were deprived of the right to take part in elections because they had not resided in their constituencies for a sufficient length of time. There was also the case of one country where the rich had two votes at elections.

If elections were to be quite fair, he thought the principles he had mentioned should be added to the list in the Drafting Committee's text.

Mr. WILSON (United Kingdom) asked the USSR representative whether, for the purpose of articles 21 and 22, he wished to add education and residence to the list in article 3, and omit from it political opinion.

/Mr. PAVLOV

Mr. PAVLOV (Union of Soviet Socialist Republics) replied he would propose to add the following four possible reasons for discrimination to the list contained in articles 21 and 22: nationality, residence, education and property status.

Mr. CASSIN (France) said he was prepared to accept the Indian-United Kingdom text which did not contain such a list.

It was obvious that if some grounds for discrimination were mentioned, then all would have to be mentioned. The French delegation agreed with the additions the USSR representative proposed making to the list in articles 21 and 22, with the exception of the one concerning nationality. There could be no question of recognizing the right of aliens to vote in their country of residence. He thought the USSR representative had probably in mind the right to vote in federal and local elections, and that he wished to safeguard the right of citizens of a federated state residing in another part of the Union, of which their own country was a member, to vote in the constituency in which they resided. The question of the federal and local vote was far too complex; it depended on the legislation of the various States, and the Commission was not competent to deal with it. The French delegation did not think it would be appropriate to have a kind of election notice in the Declaration; it was necessary to lay down principles without enumerating all the possible grounds for discrimination.

The Indian and United Kingdom text could form the first paragraph of article 21. The article, however, could not end there; the Commission would have to proclaim that the State must conform to the will of the people. Such a statement of principle should be included at the beginning of any document of a doctrinal or theoretical nature. In its draft Declaration the Commission had to find a compromise between the present state of the world and men's aspirations; but whatever the place assigned to it the principle that the

State must conform to the will of the people must be stated in the Declaration; on that point the French delegation would not yield at any cost.

He admitted that equality of opportunity to engage in public employment, dealt with in article 20 of document E/CN.4/82/Add.8, was not, strictly speaking, a fundamental right. The French delegation had written it into its draft Declaration for fear that the absence of any provision on this point might subsequently have been used to justify some form of discrimination.

Mrs. LEDON, Vice-Chairman of the Commission on the Status of Women, said her Commission was strongly in favour of retaining the enumeration of the possible grounds for discrimination, and particularly discrimination of sex.

It was unfortunately, a fact that in many countries women did not enjoy political rights; the right to vote, in particular, was often withheld on the pretext of political immaturity. It was important, therefore, that that Declaration should state that everyone had the right to take an effective part in the government of his country, and should specify the grounds on which there could be no discrimination.

In case the Commission decided not to retain the enumeration of the grounds for discrimination, she would like the records of the meeting to set forth how the Commission interpreted the words "every one".

Mr. WILSON (United Kingdom) confirmed that the expression embraced all persons with the obvious exception of children, prisoners and the insane, as in the case of several other articles of the Declaration. The expression "every one" could be defined as follows: "any adult of sound mind."

Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) was sorry to note a general tendency to shorten the text of articles 21 and 22, which would result in a less exact definition of the rights which should be proclaimed in those articles.

/Stressing that

Stressing that effective participation in the government of one's country was a fundamental right for everyone, he asked the Commission to devote particular care to the articles dealing with that right, and drew its attention to the fact that the rights and well being of all the inhabitants of a given country depended on the extent to which the masses of the people took part in the government of that country.

In various countries, unfortunately, there were still numerous grounds for discrimination in election matters. The USSR representative had mentioned some which were not to be found in the Drafting Committee's text. Supporting the observations made by Mr. Pavlov and the representative of the Commission on the Status of Women, he urged that the list in the Drafting Committee's text should be retained and completed on the lines of the USSR representative's suggestions. The Commission should guard against the danger of adopting too concise a text; the freedoms proclaimed by the Commission would be reduced to a minimum and discrimination would remain.

His delegation could not accept the text proposed by the Indian and United Kingdom delegations, and would vote only for a text that granted genuine rights to the masses of the people.

Mr. FONTAINA (Uruguay) supported the remarks made by the French representative on the importance of mentioning the duties of the State to the individual in the Declaration.

He would also point out that there was a difference between the notions of access to public office and participation in the government, and he suggested amending the Indian and United Kingdom text as follows: "Everyone has the right to access to public office and to take part in the government of his country directly or through his freely chosen representatives."

Mr. MALIK (Lebanon), Rapporteur, proposed that the words "and to hold public office", suggested by the Lebanese representative, should be

